

**SENATE JOURNAL
61ST LEGISLATURE
FIRST LEGISLATIVE DAY**

Helena, Montana
January 5, 2009

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. Senator Tropila, Co-Dean of the Senate, presiding.

Senator Tropila appointed Pastor Keith Johnson as Temporary Chaplain of the Senate and Nancy Clark as Temporary Sergeant-at-Arms.

The colors were presented by the Montana National Guard Honor Guard, followed by the Pledge of Allegiance.

Invocation was given by Pastor Keith Johnson.

Marilyn Miller was appointed temporary Secretary of the Senate.

Secretary Miller called the roll of newly elected Senators:

Ryan K. Zinke, SD 2, Whitefish
Bruce Tutvedt, SD 3, Kalispell
John Brueggeman, SD 6, Polson
Greg W. Hinkle, SD 7, Thompson Falls
Rick Ripley, SD 9, Wolf Creek
Brad Hamlett, SD 10, Cascade
Jonathan Windy Boy, SD 16, Box Elder
John C. Brenden, SD 18, Scobey
Donald J. Steinbeisser, SD 19, Sidney
Sharon Stewart-Peregoy, SD 21, Crow Agency
Taylor Brown, SD 22, Huntley
Kim Gillan, SD 24, Billings
Lynda Moss, SD 26, Billings
Gary Branae, SD 27, Billings
Bob Hawks, SD 33, Bozeman
Joe Balyeat, SD 34, Bozeman
Debby Barrett, SD 36, Dillon
Steve Gallus, SD 37, Butte
Jim Keane, SD 38, Butte
Christine Kaufmann, SD 41, Helena
Jesse Laslovich, SD 43, Anaconda
Jim Shockley, SD 45, Victor
Carol Williams, SD 46, Missoula
Ron Erickson, SD 47, Missoula
Cliff Larsen, SD 50, Missoula

Senator Curtiss, Co-Dean of the Senate, assumed the chair.

The Honorable Jim Rice, Justice of the Montana Supreme Court, administered the official oath to the new Senators.

Secretary Miller called the roll of the Senate. All 50 Senators were present.

MOTIONS

Senator Peterson moved that the Rules of the Senate and the Joint Rules as reflected in SR1 and SJ1, be printed and placed on members' desks, and be adopted as temporary operating rules of the 61st Legislature. The motion carried unanimously.

Senator Barkus nominated Senator Robert Story of District 30 for the office of President of the Senate of the 61st Legislature, and moved his election carry with it the name of Senator Dan McGee of District 29 for the office of President Pro Tempore. The motion carried unanimously.

President Story assumed the Chair. President Story introduced his family and welcomed the Senators. Senator Story introduced Senator McGee, President Pro Tempore, who provided welcoming remarks.

President Story introduced the Minority Leader, Senator Carol Williams and the Majority Leader, Senator Jim Peterson, who both introduced their families.

Senator Peterson introduced Brent Volf, a music teacher from Great Falls High School, who performed "God Bless the USA."

REPORTS OF STANDING COMMITTEES

COMMITTEE ON COMMITTEES (Esp, Chairman):

We, your Committee on Committees, recommend the following Committee appointments:

Agriculture, Livestock, and Irrigation

Steinbeisser, Donald (R) (Ch)
Murphy, Terry (R) (V Ch)
Branæ, Gary (D)
Brown, Taylor (R)
Hamlett, Bradley Maxon (D)
Hansen, Ken (Kim) (D)
Jackson, Verdell (R)
Larsen, Cliff (D)
Ripley, Rick (R)

Business, Labor, and Economic Affairs

Balyeat, Joe (R) (Ch)
Jackson, Verdell (R) (V Ch)
Barkus, Gregory (R)
Brown, Roy (R)
Keane, Jim (D)
Peterson, Jim (R)
Squires, Carolyn (D)
Steinbeisser, Donald (R)
Stewart-Peregoy, Sharon (D)
Tropila, Joseph (D)
Windy Boy, Jonathan (D)

Committee on Committees

Esp, John (R) (Ch)
Bales, Keith (R)
Black, Jerry (R)
Essmann, Jeff (R)

Gebhardt, Kelly (R)
Perry, Gary (R)

Education and Cultural Resources

Laible, Rick (R) (Ch)
Ripley, Rick (R) (V Ch)
Branæ, Gary (D)
Brown, Taylor (R)
Hamlett, Bradley Maxon (D)
Hawks, Bob (D)
McGee, Daniel (R)
Stewart-Peregoy, Sharon (D)
Zinke, Ryan (R)

Energy and Telecommunications

Black, Jerry (R) (Ch)
Curtiss, Aubyn (R) (V Ch)
Brown, Roy (R)
Erickson, Ron (D)
Esp, John (R)
Gebhardt, Kelly (R)
Hawks, Bob (D)
Lewis, Dave (R)
Moss, Lynda (D)
Stewart-Peregoy, Sharon (D)
Tropila, Mitch (D)

Ethics

Shockley, Jim (R) (Ch)
Hawks, Bob (D)
Perry, Gary (R)
Schmidt, Trudi (D)

Finance and Claims

Bales, Keith (R) (Ch)
Lewis, Dave (R) (V Ch)
Barkus, Gregory (R)
Barrett, Debby (R)
Brenden, John (R)
Brueggeman, John (R)
Cooney, Mike (D)
Esp, John (R)
Gallus, Steve (D)
Hansen, Ken (Kim) (D)
Hawks, Bob (D)
Laible, Rick (R)
Peterson, Jim (R)
Ripley, Rick (R)
Schmidt, Trudi (D)
Tropila, Mitch (D)
Wanzenried, David (D)
Williams, Carol (D)
Zinke, Ryan (R)

Fish and Game

Barkus, Gregory (R) (Ch)
Brenden, John (R) (V Ch)
Balyeat, Joe (R)
Barrett, Debby (R)
Gallus, Steve (D)
Jent, Larry (D)
Schmidt, Trudi (D)
Shockley, Jim (R)
Tropila, Joseph (D)

Highways and Transportation

Brueggeman, John (R) (Ch)
Tutvedt, Bruce (R) (V Ch)
Hinkle, Greg (R)
Keane, Jim (D)
Laible, Rick (R)
Laslovich, Jesse (D)
Wanzenried, David (D)
Windy Boy, Jonathan (D)
Zinke, Ryan (R)

Judiciary

Perry, Gary (R) (Ch)
Shockley, Jim (R) (V Ch)
Curtiss, Aubyn (R)
Esp, John (R)
Hinkle, Greg (R)
Jent, Larry (D)
Juneau, Carol (D)
Larsen, Cliff (D)
Laslovich, Jesse (D)
McGee, Daniel (R)
Moss, Lynda (D)
Murphy, Terry (R)

Legislative Administration

Curtiss, Aubyn (R) (Ch)
Barkus, Gregory (R)
Gallus, Steve (D)
Lewis, Dave (R)
Tropila, Joseph (D)

Local Government

Esp, John (R) (Ch)
Essmann, Jeff (R) (V Ch)
Barkus, Gregory (R)
Erickson, Ron (D)
Gallus, Steve (D)
Gillan, Kim (D)
Jackson, Verdell (R)
Laslovich, Jesse (D)
Tutvedt, Bruce (R)

Natural Resources

Gebhardt, Kelly (R) (Ch)
Barrett, Debby (R) (V Ch)
Curtiss, Aubyn (R)
Hansen, Ken (Kim) (D)
Kaufmann, Christine (D)
Keane, Jim (D)
Perry, Gary (R)
Peterson, Jim (R)
Steinbeisser, Donald (R)
Tropila, Mitch (D)
Wanzenried, David (D)

Public Health, Welfare, and Safety

Brown, Roy (R) (Ch)
Murphy, Terry (R) (V Ch)
Hinkle, Greg (R)
Juneau, Carol (D)
Larsen, Cliff (D)
Lewis, Dave (R)
Schmidt, Trudi (D)

Rules

Peterson, Jim (R) (Ch)
Barkus, Gregory (R)
Brenden, John (R)
Brown, Roy (R)
Cooney, Mike (D)
Esp, John (R)
Essmann, Jeff (R)
Gallus, Steve (D)
Gebhardt, Kelly (R)
Gillan, Kim (D)
Hawks, Bob (D)
Laslovich, Jesse (D)
McGee, Daniel (R)
Story Jr, Robert (R)
Wanzenried, David (D)
Williams, Carol (D)

State Administration

Shockley, Jim (R) (Ch)
Brueggeman, John (R) (V Ch)
Bales, Keith (R)
Balyeat, Joe (R)
Black, Jerry (R)
Brenden, John (R)
Cooney, Mike (D)
Jent, Larry (D)
Squires, Carolyn (D)
Tropila, Joseph (D)
Windy Boy, Jonathan (D)

Taxation

Essmann, Jeff (R) (Ch)
Brown, Taylor (R) (V Ch)
Black, Jerry (R)
Branan, Gary (D)
Erickson, Ron (D)
Gebhardt, Kelly (R)
Gillan, Kim (D)
Hamlett, Bradley Maxon (D)
Kaufmann, Christine (D)
Story Jr, Robert (R)
Tutvedt, Bruce (R)

Senator Esp moved the adoption of the Committee Report. The motion carried unanimously.

Secretary Miller read the report from the Legislative Administration Committee recommending the following staff appointments:

Susan Ames, Secretary to Majority Leader
Susan Andersen, Assistant Secretary of the Senate
Bonner Armstrong, Committee Aide
Kathy Baird, Bills Clerk
Rick Berger, Status Technician
Jennifer Bezanson, Minority Intern
Kelsey Bjelland, Majority Intern
Nancy Clark, Sergeant at Arms
Bob Clark, Assistant Sergeant for Security
Alex Corcoran, Aide to Minority
Jacob Gehmert, Intern to Senator Larsen
Prudence Gildroy, Secretary, Finance & Claims
Libby Goodwin, Secretary, Highways, State Administration
Carolyn Gorshe, Bills Distributor
Lindsey Grovom, Word Processing Supervisor
Joanne Gunderson, Secretarial Supervisor
David Halvorson, Reading Clerk
Susie Hamilton, Scanner
Lindsey Hern, Secretary, Fish & Game, Natural Resources
Stephanie Hess, Aide to Majority
Betti Hill, Aide to Majority
Karli Hill, Aide to Majority
Linda Keim, Secretary, Business
Pastor Keith Johnson, Chaplain
Bobbi Lavinder, Committee Aide
Joan Linkenbach, Secretary, Agriculture, Public Health
Mary McGinley, Assistant to Secretary
Marilyn Miller, Secretary of the Senate
Joyce Nachtsheim, Assistant Sergeant, Pages
Mark Olsen, Asst Bills Distributor and Amendment Coordinator
Cindy Palmer, Aide to Minority
Cindy Peterson, Journal Clerk
Debbie Polhemus, Secretary, Tax, Local Govt.
Carolyn Renaud, Bills Coordinator
Dan Ritter, Amendments Coordinator
Colin Roemmich, Committee Aide

Andy Sangray, Security
Pam Schindler, Secretary, Judiciary
Tyler Schott, Aide to Majority
Samantha Schroeder, Committee Aide
Dan Sidor, Vote Clerk
Callan Smith, Intern to Sen. Brueggeman
Carl Spencer, Security
Katie Spencer, Assistant Sergeant for Supplies
Nadine Spencer, Secretary, Energy, Education
Lynn Staley, Secretary to President
Jana Suchy, Secretary to Minority Leader
Mike Sullivan, Aide to Minority
Michaela Wolfinger, Intern to Senator Wanzenried

Senator Curtiss moved the adoption of the Legislative Administration Committee report. The motion carried unanimously.

SPECIAL ORDERS OF THE DAY

Secretary Miller read the letter of appointments from the President. The President's appointment of Marilyn Miller, Secretary of the Senate, Nancy Clark, Sergeant-at-Arms, and Pastor Keith Johnson, Chaplain to the Senate, for the 61st Legislature was confirmed unanimously by the Senate.

Senator Peterson moved that the President appoint a select committee to notify His Excellency, the Governor, that the Senate is organized and ready for business. The motion carried unanimously. The President appointed Senator Brueggeman (Chair), Senator Gebhardt, Senator Cooney, and Senator Gillan.

Senator Peterson moved that the President appoint a select committee to notify the Chief Justice and members of the Supreme Court that the Senate is organized and ready for the transaction of business. The motion carried unanimously. The President appointed Senator Perry (Chair), Senator Curtiss, Senator Laslovich, and Senator Juneau.

Senator Peterson moved that the President appoint a select committee to notify the House of Representatives that the Senate is organized and ready for business and that the Senate wishes them success in their deliberations. The motion carried unanimously. The President appointed Senator Ripley (Chair), Senator Barrett, Senator Windy Boy, and Senator Branae.

Sen. Peterson moved the Senate stand at ease to await the reports of select committees. The motion carried unanimously.

MESSAGES FROM THE OTHER HOUSE

The Honorable Committee from the House of Representatives, consisting of Rep. Arlene Becker and Rep. Ken Peterson, reported the House of Representatives was organized.

REPORTS OF SELECT COMMITTEES

The select committee appointed to notify the Supreme Court reported they had discharged their duty.

The select committee appointed to notify the House of Representatives reported they had discharged their duty.

The select committee appointed to notify the Governor reported they had discharged their duty.

MOTIONS

Senator Peterson moved that the accredited members of the press, radio, and television be granted the privilege of the Senate floor subject to the rules. The motion carried unanimously.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

- SB 1**, introduced by Cooney, referred to Judiciary.
- SB 2**, introduced by Cooney (by request of the Legislative Council), referred to Finance and Claims.
- SB 3**, introduced by Essmann, referred to Natural Resources.
- SB 4**, introduced by Wanzenried (by request of the Environmental Quality Council), referred to Natural Resources.
- SB 5**, introduced by Erickson (by request of the Legislative Finance Committee), referred to Natural Resources.
- SB 6**, introduced by Erickson, referred to Local Government.
- SB 7**, introduced by Gebhardt (by request of the Code Commissioner), referred to Judiciary.
- SB 8**, introduced by Hansen, referred to Local Government.
- SB 9**, introduced by Erickson, referred to Local Government.
- SB 10**, introduced by Perry (by request of the Law and Justice Interim Committee), referred to Judiciary.
- SB 11**, introduced by J. Peterson (by request of the Revenue and Transportation Interim Committee), referred to Taxation.
- SB 12**, introduced by Steinbeisser, referred to Taxation.
- SB 13**, introduced by Steinbeisser, referred to Fish and Game.
- SB 14**, introduced by Steinbeisser, referred to Fish and Game.
- SB 15**, introduced by Steinbeisser, referred to Fish and Game.
- SB 16**, introduced by Steinbeisser, referred to Fish and Game.
- SB 17**, introduced by Perry (by request of the Water Policy Committee), referred to Local Government.
- SB 18**, introduced by Wanzenried (by request of the Legislative Council), referred to State Administration.
- SB 19**, introduced by Jent, referred to Fish and Game.
- SB 20**, introduced by Jent (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.
- SB 21**, introduced by Story (by request of the Revenue and Transportation Interim Committee), referred to Taxation.
- SB 22**, introduced by Murphy (by request of the Environmental Quality Council and Water Policy Interim Committee), referred to Natural Resources.
- SB 23**, introduced by Wanzenried (by request of the Legislative Finance Committee), referred to Taxation.
- SB 24**, introduced by Williams (by request of the Department of Administration), referred to State Administration.
- SB 25**, introduced by Wanzenried (by request of the Environmental Quality Council), referred to Natural Resources.
- SB 26**, introduced by Murphy (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.
- SB 27**, introduced by Hawks (by request of the Environmental Quality Council), referred to Highways and Transportation.
- SB 28**, introduced by Story (by request of the Revenue and Transportation Interim Committee), referred to Taxation.
- SB 29**, introduced by Wanzenried (by request of the Legislative Finance Committee), referred to Finance and Claims.
- SB 30**, introduced by Gebhardt (by request of the Legislative Council), referred to State Administration.
- SB 31**, introduced by Bales, referred to Fish and Game.
- SB 32**, introduced by Barkus, referred to Fish and Game.
- SB 33**, introduced by Lewis (by request of the Fire Suppression Committee), referred to Energy and Telecommunications.
- SB 34**, introduced by Lewis (by request of the Fire Suppression Committee), referred to Local Government.
- SB 35**, introduced by Jent (by request of the Law and Justice Interim Committee), referred to Judiciary.
- SB 36**, introduced by Erickson, referred to Taxation.
- SB 37**, introduced by Kaufmann (by request of the Environmental Quality Council), referred to Taxation.
- SB 38**, introduced by Curtiss, referred to Agriculture, Livestock and Irrigation.

SB 39, introduced by Juneau, Calf Boss Ribs, Brueggeman, Fleming, referred to Natural Resources.

SB 40, introduced by Juneau (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Judiciary.

SB 41, introduced by Lewis (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.

SB 42, introduced by Laslovich (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

SB 43, introduced by Kaufmann (by request of the Revenue and Transportation Interim Committee), referred to Taxation.

SB 44, introduced by Hansen (by request of the Economic Affairs Interim Committee), referred to Public Health, Welfare and Safety.

SB 45, introduced by McGee (by request of the Public Defender Commission), referred to Judiciary.

SB 46, introduced by McGee, referred to Judiciary.

SB 47, introduced by Steinbeisser (by request of the Department of Administration), referred to Business, Labor, and Economic Affairs.

SB 48, introduced by Essmann (by request of the Revenue and Transportation Interim Committee), referred to Taxation.

SB 49, introduced by Wanzenried (by request of the Environmental Quality Council), referred to State Administration.

SB 50, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.

SB 51, introduced by Murphy (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

SB 52, introduced by Murphy (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

SB 53, introduced by Lewis, referred to Public Health, Welfare and Safety.

SB 54, introduced by Steinbeisser (by request of the Department of Administration), referred to Business, Labor, and Economic Affairs.

SB 55, introduced by Steinbeisser (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

SB 56, introduced by Schmidt, referred to Local Government.

SB 57, introduced by Gillan (by request of the Education and Local Government Interim Committee), referred to Local Government.

SB 58, introduced by Gillan (by request of the Education and Local Government Interim Committee), referred to Local Government.

SB 59, introduced by Laible, referred to Fish and Game.

SB 60, introduced by Erickson (by request of the Legislative Finance Committee), referred to Business, Labor, and Economic Affairs.

SB 61, introduced by Hawks, referred to Local Government.

SB 62, introduced by Laible, referred to Natural Resources.

SB 63, introduced by Laible (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

SB 64, introduced by Laible (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Highways and Transportation.

SB 65, introduced by Hawks (by request of the Department of Natural Resources and Conservation), referred to Finance and Claims.

SB 66, introduced by Erickson, referred to Energy and Telecommunications.

SB 67, introduced by Laible, referred to Education and Cultural Resources.

SB 68, introduced by Wanzenried (by request of the Environmental Quality Council), referred to Agriculture, Livestock and Irrigation.

SB 69, introduced by Branae (by request of the Office of Public Instruction), referred to Education and Cultural Resources.

SB 70, introduced by Branae (by request of the Office of Public Instruction), referred to Education and Cultural Resources.

SB 71, introduced by Erickson (by request of the Department of Environmental Quality), referred to Natural Resources.

SB 72, introduced by Laslovich (by request of the Public Service Commission), referred to State Administration.

SB 73, introduced by Hawks, referred to Highways and Transportation.

SB 74, introduced by Laible, referred to Local Government.

SB 75, introduced by Laible (by request of the Fire Suppression Committee), referred to Business, Labor, and Economic Affairs.

SB 76, introduced by Black (by request of the Board of Oil and Gas Conservation and the Department of Natural Resources and Conservation), referred to Natural Resources.

SB 77, introduced by Juneau (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

SB 78, introduced by Brenden, referred to Local Government.

SB 79, introduced by Juneau (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

SB 80, introduced by McGee, referred to Education and Cultural Resources.

SB 81, introduced by McGee, referred to Education and Cultural Resources.

SB 82, introduced by Steinbeisser (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.

SB 83, introduced by Laible (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

SB 84, introduced by Gillan (by request of the Department of Corrections), referred to Business, Labor, and Economic Affairs.

SB 85, introduced by J. Tropila (by request of the Department of Justice), referred to Business, Labor, and Economic Affairs.

SB 86, introduced by J. Tropila (by request of the Department of Justice), referred to Business, Labor, and Economic Affairs.

SB 87, introduced by Essmann, referred to Judiciary.

SB 88, introduced by M. Tropila, referred to Highways and Transportation.

SB 89, introduced by M. Tropila (by request of the Department of Commerce), referred to Business, Labor, and Economic Affairs.

SB 90, introduced by Jackson (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

SB 91, introduced by Juneau, Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.

SB 92, introduced by Jent, referred to Judiciary.

SB 93, introduced by Jent (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

SB 94, introduced by Jent (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

SB 95, introduced by Brueggeman (by request of the Department of Environmental Quality), referred to Natural Resources.

SB 96, introduced by Jent (by request of the Department of Corrections), referred to Judiciary.

SB 97, introduced by Wanzenried (by request of the Department of Environmental Quality), referred to Natural Resources.

SB 98, introduced by Keane (by request of the Fire Suppression Committee), referred to Local Government.

SB 99, introduced by Keane (by request of the Fire Suppression Committee), referred to State Administration.

SB 100, introduced by Black, referred to Natural Resources.

SB 101, introduced by Brueggeman (by request of the Department of Environmental Quality), referred to Natural Resources.

SB 102, introduced by Brueggeman (by request of the Department of Environmental Quality), referred to Natural Resources.

SB 103, introduced by Moss (by request of the Department of Justice), referred to Judiciary.

SB 104, introduced by Esp (by request of the Department of Livestock), referred to Agriculture, Livestock and Irrigation.

SB 105, introduced by Laible (by request of the Fire Suppression Committee), referred to Taxation.
SB 106, introduced by Laible (by request of the Fire Suppression Committee), referred to Taxation.
SB 107, introduced by Lewis (by request of the Fire Suppression Committee), referred to Natural Resources.
SB 108, introduced by Jent (by request of the Department of Military Affairs), referred to Judiciary.
SB 109, introduced by Hawks, referred to Local Government.
SB 110, introduced by Ripley (by request of the Fire Suppression Committee), referred to Local Government.
SB 111, introduced by Ripley (by request of the Fire Suppression Committee), referred to Natural Resources.
SB 112, introduced by Keane (by request of the Fire Suppression Committee), referred to Natural Resources.
SB 113, introduced by Keane (by request of the Fire Suppression Committee), referred to Natural Resources.
SB 114, introduced by Wanzenried (by request of the Legislative Finance Committee), referred to Finance and Claims.
SB 115, introduced by Kaufmann (by request of the Department of Revenue), referred to Taxation.
SB 116, introduced by Keane (by request of the Department of Transportation), referred to Taxation.
SB 117, introduced by Wanzenried (by request of the Legislative Finance Committee), referred to Finance and Claims.
SB 118, introduced by Jackson (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.
SB 119, introduced by Esp (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
SB 120, introduced by Zinke (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.
SB 121, introduced by Jent (by request of the Commissioner of Political Practices), referred to Judiciary.
SB 122, introduced by Jent (by request of the Department of Administration), referred to Business, Labor, and Economic Affairs.
SB 123, introduced by Squires (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.
SB 124, introduced by Squires (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.
SB 125, introduced by Shockley (by request of the Law and Justice Interim Committee), referred to Judiciary.
SB 126, introduced by Murphy (by request of the Department of Livestock), referred to Agriculture, Livestock and Irrigation.
SB 127, introduced by Gillan (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.
SB 128, introduced by Branae (by request of the Department of Revenue), referred to Taxation.
SB 129, introduced by Lewis (by request of the Fire Suppression Committee), referred to Natural Resources.
SB 130, introduced by Hamlett (by request of the Department of Livestock), referred to Agriculture, Livestock and Irrigation.
SB 131, introduced by Williams (by request of the Fire Suppression Committee), referred to Natural Resources.
SB 132, introduced by Moss (by request of the Department of Revenue), referred to Taxation.
SB 133, introduced by Kaufmann (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.
SB 134, introduced by Lewis (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.
SB 135, introduced by Larsen (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.
SB 136, introduced by Gebhardt (by request of the Board of Oil and Gas Conservation and the Department of Natural Resources and Conservation), referred to Natural Resources.
SB 137, introduced by Hansen (by request of the Fire Suppression Committee), referred to Business, Labor, and Economic Affairs.
SB 138, introduced by Hansen (by request of the Fire Suppression Committee), referred to Business, Labor, and Economic Affairs.
SB 139, introduced by Perry (by request of the Department of Justice), referred to Judiciary.
SB 140, introduced by Perry (by request of the Department of Justice), referred to Judiciary.
SB 141, introduced by J. Tropila (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.
SB 142, introduced by Perry, referred to Business, Labor, and Economic Affairs.

SB 143, introduced by Laible (by request of the Fire Suppression Committee), referred to Natural Resources.

SB 144, introduced by Laible (by request of the Fire Suppression Committee), referred to Business, Labor, and Economic Affairs.

SB 145, introduced by Laible (by request of the Fire Suppression Committee), referred to Business, Labor, and Economic Affairs.

SB 146, introduced by Laible (by request of the Fire Suppression Committee), referred to Taxation.

SB 147, introduced by Hawks (by request of the Department of Environmental Quality), referred to Natural Resources.

SB 148, introduced by J. Peterson (by request of the Education and Local Government Interim Committee), referred to Local Government.

SB 149, introduced by Brueggeman (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

SB 150, introduced by Brueggeman (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

SB 151, introduced by Brueggeman (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.

SB 152, introduced by Brueggeman (by request of the Department of Justice), referred to Highways and Transportation.

SB 153, introduced by Brueggeman (by request of the Legislative Finance Committee), referred to Finance and Claims.

SB 154, introduced by Gillan (by request of the Department of Justice), referred to Highways and Transportation.

SB 155, introduced by Cooney (by request of the Secretary of State), referred to State Administration.

SB 156, introduced by Cooney (by request of the Secretary of State), referred to State Administration.

SB 157, introduced by Shockley, referred to Judiciary.

SB 158, introduced by Barkus, McGee (by request of the Supreme Court), referred to Judiciary.

SB 159, introduced by Shockley, referred to Judiciary.

SB 160, introduced by Jent (by request of the Attorney General), referred to Judiciary.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 1, introduced by J. Peterson (by request of the Joint Rules Committee), referred to Rules.

SJR 2, introduced by Lewis (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.

SJR 3, introduced by Laible (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.

SJR 4, introduced by Laible (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.

SJR 5, introduced by Laible (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

SJR 6, introduced by Hansen, referred to Business, Labor, and Economic Affairs.

SJR 7, introduced by Brenden, referred to Natural Resources.

SJR 8, introduced by Hawks (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.

SJR 9, introduced by Wanzenried (by request of the Legislative Finance Committee), referred to Education and Cultural Resources.

SJR 10, introduced by Erickson (by request of the Legislative Finance Committee), referred to Business, Labor, and Economic Affairs.

SJR 11, introduced by Brueggeman (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

SJR 12, introduced by Laible (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 1, introduced by J. Peterson (by request of Senate Rules Standing Committee), referred to Rules.

Senator Peterson introduced the newly elected Republican Senators:

Sen. Debby Barrett, SD 36, Dillon
Sen. John Brenden, SD 18, Scobey
Sen. Taylor Brown, SD 22, Huntley
Sen. Greg Hinkle, SD 7, Thompson Falls
Sen. Rick Ripley, SD 9, Wolf Creek
Sen. Bruce Tutvedt, SD 3, Kalispell
Sen. Ryan Zinke, SD 2, Whitefish

Senator Williams introduced the newly elected Democrat Senators:

Sen. Gary Branae, SD 27, Billings
Sen. Ron Erickson, SD 47, Missoula
Sen. Bradley Maxon Hamlett, SD 10, Cascade
Sen. Christine Kaufmann, SD 41, Helena
Sen. Jim Keane, SD 38, Butte
Sen. Cliff Larsen, SD 50, Missoula
Sen. Sharon Stewart-Peregoy, SD 21, Crow Agency
Sen. Jonathan Windy Boy, SD 16, Box Elder

President Story welcomed the new Senators.

ANNOUNCEMENTS

President Story announced Law School for Legislators would be held on January 6, 2009, in the House Chambers.

SPECIAL ORDERS OF THE DAY

Mr. Volf sang "God Bless America."

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 6, 2009. Motion carried.

Senate adjourned at 1:25 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SECOND LEGISLATIVE DAY**

Helena, Montana
January 6, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. Quorum present.

The following Senate bills were introduced, read first time, and referred to committees:

SB 161, introduced by Barrett, referred to Business, Labor, and Economic Affairs.

SB 162, introduced by Barrett, referred to Fish and Game.

SB 163, introduced by Barrett, referred to Fish and Game.

SB 164, introduced by Barrett, referred to Fish and Game.

SB 165, introduced by Lewis, referred to Education and Cultural Resources.

SB 166, introduced by Lewis, referred to Local Government.

SB 167, introduced by Zinke, referred to Agriculture, Livestock and Irrigation.

SB 168, introduced by Zinke, referred to Highways and Transportation.

SB 169, introduced by Gebhardt, referred to Judiciary.

SB 170, introduced by Gebhardt, referred to State Administration.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 13, introduced by Zinke, referred to State Administration.

Sen. Gebhardt was present at this time.

SPECIAL ORDERS OF THE DAY

Sen. R. Brown introduced the following pages:

Sarah Laszloffy, Laurel
Shelisa Craig, Carter
Sterling Veltkamp, Stevensville

Senator Peterson introduced Pastor Keith Johnson.

Senator Peterson introduced the majority leadership staff.

Senator Williams introduced the minority leadership staff.

Sergeant-at-Arms Nancy Clark introduced her staff.

Secretary of the Senate Marilyn Miller introduced her staff.

Committee meetings were announced by the committee chairs.

SENATE JOURNAL
SECOND LEGISLATIVE DAY - JANUARY 6, 2009

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 7, 2009. Motion carried.

Senate adjourned at 1:19 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRD LEGISLATIVE DAY**

Helena, Montana
January 7, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

COMMUNICATIONS AND PETITIONS

Secretary Miller read a letter dated January 6, 2009, from U.S. Senator Jon Tester, requesting an opportunity to address a joint session of the legislature on January 9, 2009.

Secretary Miller read a letter dated January 2, 2009, from U.S. Senator Max Baucus requesting an opportunity to address a joint session of the legislature on February 17, 2009.

Secretary Miller read a letter dated January 5, 2009, from the Honorable Brian Schweitzer, requesting an opportunity to address a joint session of the legislature on January 28, 2009.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 171, introduced by Barkus, referred to Judiciary.

SB 172, introduced by Barkus, referred to Local Government.

SPECIAL ORDERS OF THE DAY

Senator Peterson introduced Steve Eller, Office of Legislative Information Technology, who discussed the new voting system operations.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Gillan announced the Pacific Northwest Energy Resources luncheon to be held on Thursday, January 8, 2009, at 12:00 p.m. in Room 317.

Senator Laible announced a workshop on education to be held on Saturday, January 10, 2009, in the Great Northern Town Center.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, January 8, 2009. Motion carried.

Senate adjourned at 1:22 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FOURTH LEGISLATIVE DAY**

Helena, Montana
January 8, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Keane and Windy Boy, excused. Quorum present.

SPECIAL ORDERS OF THE DAY

Sen. Gillan introduced the Pacific Northwest Energy Resources delegation.

Senator Peterson introduced Shelisa Craig, a Senate Page from Carter, who gave a solo performance on the cello.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman): 1/8/2009
SB 10, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman): 1/8/2009
SB 25, do pass. Report adopted.
SB 39, do pass. Report adopted.

MOTIONS

Sen. Bales moved SB 18 be moved from State Administration to Finance and Claims. Motion carried unanimously.

Sen. Peterson moved to create a Select Joint Committee with the House of Representatives on the subject of property reappraisal of properties in Classes 3, 4 and 10. Motion carried unanimously.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 173, introduced by Murphy, Mendenhall, referred to Education and Cultural Resources.

SB 174, introduced by Perry, referred to Public Health, Welfare and Safety.

SB 175, introduced by Perry, referred to Highways and Transportation.

SB 176, introduced by Perry, referred to Business, Labor, and Economic Affairs.

SB 177, introduced by Murphy, referred to State Administration.

SPECIAL ORDERS OF THE DAY

Sen. Peterson requested that Senators let Secretary Miller know if they do not wish to receive a paper agenda packet.

SENATE JOURNAL
FOURTH LEGISLATIVE DAY - JANUARY 8, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Sen. Black announced an energy conference to be held January 9-10, 2009, at Carroll College. The conference is entitled "Realizing Montana's Energy Potential - Economic, Technological, and Policy Considerations." Senator Tester will be one of the keynote presenters. The registration fee will be waived for all members of the legislature.

Sen. Laible announced the Montana Legislative Education Workshop to be held at the Great Northern Hotel on January 10, 2009, at 9:00 a.m. Sen. Laible clarified that lunch would not be complimentary for legislators.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, January 9, 2009. Motion carried.

Senate adjourned at 1:19 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTH LEGISLATIVE DAY**

Helena, Montana
January 9, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 10, SB 25, SB 39.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 1/12/2009
SB 141, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman): 1/9/2009
SB 73, do pass. Report adopted.

JUDICIARY (Perry, Chairman): 1/9/2009
SB 7, do pass. Report adopted.
SB 40, do pass. Report adopted.
SB 45, introduced bill, be amended as follows:

1. Page 1, line 12.

Following: "(1)"

Insert: "(a)"

2. Page 1, line 12 through line 13.

Following: "~~request~~," on line 12

Strike: remainder of line 12 through "indigent" on line 13

Insert: "Upon request"

3. Page 1, line 14.

Following: "reproduction"

Strike: ", without cost to the defendant,"

4. Page 1, line 16.

Strike: "(a)"

Insert: "(i)"

5. Page 1, line 18.

Strike: "(b)"

Insert: "(ii)"

6. Page 1, line 19.

Strike: "(c)"

Insert: "(iii)"

SENATE JOURNAL
FIFTH LEGISLATIVE DAY - JANUARY 9, 2009

7. Page 1, line 22.

Strike: "(d)"

Insert: "(iv)"

8. Page 1, line 24.

Strike: "(e)"

Insert: "(v)"

9. Page 1, line 26.

Following: line 25

Insert: "(b) When, pursuant to 47-1-111, a defendant has been determined by the office of state public defender to be indigent, the prosecutor shall, without cost to the defendant or to the office of state public defender, make available the material and information required under subsection (1)(a)."

And, as amended, do pass. Report adopted.

SB 91, do pass. Report adopted.

SB 125, do pass. Report adopted.

RULES (Peterson, Chairman):

1/9/2009

SR 1, introduced resolution, be amended as follows:

1. Page 5, line 18.

Strike: "hired"

Insert: "trained"

2. Page 8, line 6.

Following: "committees."

Insert: "Prior to making committee assignments, the Committee on Committees shall take into consideration the recommendations of the minority leader for minority committee assignments."

3. Page 22, line 14.

Strike: "Unless the"

Insert: "The"

Strike: "requests"

Insert: "shall make"

Strike: "beforehand"

And, as amended, be adopted. Report adopted.

RULES (Peterson, Chairman):

1/9/2009

SJR 1, introduced joint resolution, be amended as follows:

1. Page 2, line 13.

Strike: "leadership committee"

Insert: "employees"

2. Page 2, line 17 through line 22.

Following: "employee" on line 17

Strike: remainder of line 17 through line 22 in their entirety

Insert: ", acting together, shall:

SENATE JOURNAL
FIFTH LEGISLATIVE DAY - JANUARY 9, 2009

- (1) hire joint employees; and
- (2) review a dispute or complaint involving the competency or decorum of a joint employee, and dismiss, suspend, or retain the employee."

And, as amended, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

1/8/2009

HB 1, introduced by Sesso

MOTIONS

Sen. Esp moved that a Select Joint Committee on Reappraisal be created and that the following Senators be appointed: Senator Gillan, Senator Kaufmann, Senator Gebhardt, and Senator Tutvedt. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 178, introduced by Gebhardt, Klock, referred to Energy and Telecommunications.

SB 179, introduced by Erickson, Ankney, Dickenson, Hamilton, Wilmer, Hamilton, D. Brown, MacLaren, Nooney, McAlpin, Furey, Hands, Mehlhoff, Branae, Kaufmann, Jackson, referred to Taxation.

SB 180, introduced by Erickson, Dickenson, Reinhart, Wiseman, Hands, Phillips, Furey, Kaufmann, Branae, Hawks, referred to Natural Resources.

SB 181, introduced by Esp, referred to Taxation.

SB 182, introduced by Esp, referred to Judiciary.

SB 183, introduced by Balyeat, Warburton, Jones, Mendenhall, Blasdel, Ankney, McGillvray, Butcher, Boniek, Miller, Hendrick, Smith, Randall, More, Klock, Kasten, Bennett, K. Peterson, Ingraham, Curtiss, Hinkle, Bales, Balyeat, Debby Barrett, Jackson, Black, Ripley, Perry, Hamlett, J. Tropila, Esp, Barkus, Laible, referred to Fish and Game.

SB 184, introduced by Balyeat, Boniek, Kerns, O'Hara, Kasten, Butcher, Phillips, Stahl, Milburn, More, Warburton, Sales, Hendrick, Bennett, Vance, Ripley, Debby Barrett, Balyeat, Hinkle, Jackson, Zinke, Black, Gebhardt, Bales, Brenden, Curtiss, Murphy, Steinbeisser, Gallus, Barkus, Shockley, referred to Fish and Game.

SB 185, introduced by Balyeat, Murphy, Balyeat, R. Brown, Curtiss, Jackson, Hinkle, Black, Gebhardt, Ripley, Debby Barrett, Miller, Warburton, referred to Fish and Game.

SB 186, introduced by Balyeat, Warburton, Hendrick, Kerns, Vance, Bennett, Kasten, Boniek, Sands, Himmelberger, Phillips, O'Hara, O'Hara, R. Brown, Jackson, Bales, Curtiss, Brenden, Hinkle, Vance, Gebhardt, Black, Kerns, Debby Barrett, Hendrick, referred to State Administration.

SB 187, introduced by Balyeat, Balyeat, Jackson, Hinkle, Black, Curtiss, Shockley, Black, Tutvedt, Murphy, Bales, Tutvedt, Murphy, Bales, Brenden, J. Peterson, Gebhardt, Debby Barrett, Laible, Laible, T. Brown, Essmann, Warburton, Mendenhall, Boniek, Miller, Bennett, Randall, O'Hara, Zinke, Butcher, More, Kasten, Kerns, Ankney, referred to State Administration.

SB 188, introduced by Balyeat, Boniek, Bennett, Curtiss, Black, Hinkle, Stoker, Blasdel, Butcher, Kerns, Kasten, Mendenhall, Laible, Ripley, Debby Barrett, Warburton, referred to Fish and Game.

SB 189, introduced by Balyeat, J. Tropila, M. Tropila, Lewis, Barkus, Glaser, B. Beck, referred to Judiciary.

SB 190, introduced by Hawks, referred to Business, Labor, and Economic Affairs.

SB 191, introduced by Jent, referred to Judiciary.

SB 192, introduced by Zinke, referred to Business, Labor, and Economic Affairs.

SB 193, introduced by McGee, referred to Natural Resources.

SENATE JOURNAL
FIFTH LEGISLATIVE DAY - JANUARY 9, 2009

SB 194, introduced by McGee, referred to Business, Labor, and Economic Affairs.

SB 195, introduced by Windy Boy, Belcourt, Stewart-Peregoy, Pease-Lopez, Boss Ribs, Augare, Roundstone, Campbell, referred to Business, Labor, and Economic Affairs.

SB 196, introduced by Windy Boy, Belcourt, Stewart-Peregoy, Pease-Lopez, Boss Ribs, Campbell, Augare, referred to State Administration.

HB 1, introduced by Sesso (by request of the Legislative Council), referred to Finance and Claims.

SPECIAL ORDERS OF THE DAY

Senator Peterson informed the Senate members that Information Technology personnel would not be available on the Senate floor following floor session beginning Monday, January 12, 2009. Anyone needing assistance should call 0912.

Senator Peterson announced that copies of the 2011 Biennium Budget Analysis are available in the Senate Chamber.

Sen. Brown thanked the Pages for their work during the past week.

Sen. Perry announced that Senate Judiciary and other interested parties will participate in a tour of the Great Falls correctional facilities on Saturday, January 17, 2009. A tour of the Deer Lodge and Warm Springs correctional facilities will be held on Saturday, January 24, 2009.

Sen. Hawks announced an energy conference to be held on January 9-10, 2009, in the Great Northern Hotel.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Zinke announced Plum Creek Timber Company had just laid off 220 permanent employees and 145 temporary employees.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, January 12, 2009. Motion carried.

Senate adjourned at 1:13 p.m. to attend a Joint Session with the House of Representatives and hear an address by U.S. Senator Jon Tester.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTH LEGISLATIVE DAY**

Helena, Montana
January 12, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Mr. President: We, your committee on Senate Bills and Journal, having examined the daily journals for the first, second, third, and fourth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

Correctly engrossed: SB 45, SJR 1, SR 1.

STATE ADMINISTRATION (Shockley, Chairman):
SB 24, do pass. Report adopted.

1/12/2009

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 42, introduced bill, be amended as follows:

1/12/2009

1. Page 1, line 30 through page 2, line 1.

Strike: "meeting" on page 1, line 30 through "2-15-1707(3)(a)" on page 2, line 1

2. Page 2, line 2.

Following: "judge"

Insert: "and who prior to being put on the list of potential substitutes have been admitted to the practice of law in Montana for at least 5 years, currently reside in Montana, and have resided in the state for 2 years"

And, as amended, do pass. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 197, introduced by Laslovich, referred to Judiciary.

SB 198, introduced by Lewis, Lake, referred to Taxation.

SB 199, introduced by Cooney, Kaufmann, Lewis, Cohenour, Miller, Hunter, Hollenbaugh, Caferro, Hiner, Menahan, referred to State Administration.

SB 200, introduced by Erickson, Hands, referred to Natural Resources.

SB 201, introduced by Laslovich, Stewart-Peregoy, Pease-Lopez, Roundstone, Belcourt, referred to Natural Resources.

SB 202, introduced by Hinkle, Hendrick, Jackson, Gebhardt, Murphy, Debby Barrett, Zinke, Ankney, referred to Fish and Game.

SB 203, introduced by Shockley, referred to Highways and Transportation.

The following Senate resolution was introduced, read first time, and referred to committee:

SJR 14, introduced by Larsen, referred to State Administration.

SENATE JOURNAL
SIXTH LEGISLATIVE DAY - JANUARY 12, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 10 - Senator Perry moved **SB 10** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 25 - Senator Wanzenried moved **SB 25** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 39 - Senator Juneau moved **SB 39** do pass.

SB 39 - Senator Debby Barrett moved **SB 39**, second reading copy, be amended as follows:

1. Page 2, line 12.

Strike: "60"

SENATE JOURNAL
SIXTH LEGISLATIVE DAY - JANUARY 12, 2009

Insert: "24"

2. Page 2, line 20.

Strike: "60"

Insert: "24"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 47

Nays: Kaufmann, Keane, Windy Boy.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 39 - Senator Juneau moved **SB 39**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

SENATE JOURNAL
SIXTH LEGISLATIVE DAY - JANUARY 12, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Tropila urged members to visit the informational display in the Rotunda for the Montana National Guard.

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman): 1/12/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, January 10, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Sarah Laszloffy, Laurel Shelisa Craig, Carter Sterling Veltkamp, Stevensville

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, January 12, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Jonathan Habel, Clancy Kaitlyn Nolte, Colstrip Chris Sobonya, Helena

Report Adopted.

Senator Barkus introduced Pages for the week of January 12-17, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Peterson announced the Republican caucus would meet upon adjournment.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 13, 2009. Motion carried.

Senate adjourned at 1:31 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTH LEGISLATIVE DAY**

Helena, Montana
January 13, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Windy Boy, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Senator Curtiss, Chairman): 1/13/2009
Correctly printed: **SB 10, SB 24, SB 25, SB 197, SB 198, SB 199, SB 200, SB 201, SB 202, SB 203.**

Correctly engrossed: **SB 39, SB 42.**

Transmitted to the House: **SB 10, SB 25**

Returned to the House: **HB 1**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 1/13/2009
SB 47, introduced bill, be amended as follows:

1. Page 2, line 5.
Following: "any"
Insert: "applicable"

And, as amended, do pass. Report adopted.

SB 54, introduced bill, be amended as follows:

1. Page 2, line 18.
Following: "any"
Insert: "applicable"

And, as amended, do pass. Report adopted.

SB 133, introduced bill, be amended as follows:

1. Title, page 1, line 13.
Following: "PROVISIONS;"
Insert: "CLARIFYING CERTAIN INCURRED GROUP HEALTH INSURANCE CLAIMS MAY BE HELD
PENDING PREMIUM PAYMENT;"

2. Title, page 1, line 15.
Following: "33-22-302,"
Insert: "33-22-530,"

3. Page 24.
Following: line 18

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 13, 2009

Insert: "Section 26. Section 33-22-530, MCA, is amended to read:

"33-22-530. Notice required for cancellation for nonpayment of group health insurance. (1) A health insurance issuer shall provide at least 15 days prior notification of cancellation for nonpayment of premium for group health insurance coverage.

(2) The notice must be sent to the policyholder at the policyholder's last-known address and must specify the date of cancellation of coverage. The insurer shall attach a properly executed proof of mailing to this notice and maintain a copy of the proof of mailing in its records.

(3) The health insurance issuer shall hold for processing of payment any claims ~~received~~ for covered benefits incurred during the 15-day notification period for nonpayment of premium for group health insurance coverage. Upon receipt of the premium, claims held for the 15-day notification period must be processed for payment.

(4) The policy continues in full force and effect, subject to the requirements of subsection (3), until the proper 15-day notice has been given, unless the coverage has already been replaced.

(5) The 15-day period begins to run from the date of the proof of mailing.

(6) The issuer may collect premiums for any time period that the coverage remains in effect.

(7) When coverage is actually canceled, notice must also be mailed to all certificate holders at:

(a) their last-known home addresses if available; or

(b) the business address of the group policyholder.

(8) The notice of cancellation to certificate holders must be separate from the certificate of creditable coverage required in 33-22-142, although it may be mailed simultaneously with the certificate."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

1/13/2009

HB 1, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

1/13/2009

SB 35, introduced bill, be amended as follows:

1. Title, line 5 through line 6.

Following: "THAT" on line 5

Strike: remainder of line 5 through "STATE PRISON" on line 6

Insert: "A SHERIFF DELIVERING A DEFENDANT TO A PLACE OF CONFINEMENT, COMMITMENT, OR EXECUTION SHALL ALSO DELIVER ALL INFORMATION IN THE SHERIFF'S POSSESSION"

2. Title, line 7 through line 8.

Following: "OF THE" on line 7

Strike: remainder of line 7 through "PRISON" on line 8

Insert: "DEFENDANT, INCLUDING HEALTH INFORMATION CONTAINED IN A PRESENTENCE INVESTIGATION REPORT"

3. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "46-18-112"

Insert: "AND 46-19-101"

4. Page 1, line 13 through line 14.

Following: "report" on line 13

Strike: remainder of line 13 through "prison" on line 14

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 13, 2009

5. Page 1, line 30 through page 2, line 2.

Strike: subsection (4) in its entirety

Insert: "(4) Upon sentencing, the court shall forward to the sheriff all information contained in the presentence investigation report concerning the physical and mental health of the defendant, and the information must be delivered with the defendant as required in 46-19-101."

6. Page 2, line 3.

Following: line 2

Insert: "Section 2. Section 46-19-101, MCA, is amended to read:

"46-19-101. Commitment of defendant -- transfer of information in possession of sheriff. (1) Upon oral pronouncement of a sentence imposing punishment of imprisonment, commitment to the department of corrections, placement in a prerelease center, community corrections facility, or other place of confinement, or death, the court shall commit the defendant to the custody of the sheriff, who shall deliver the defendant to the place of confinement, commitment, or execution and give that place an order, which must be signed by the sentencing judge on the date of oral pronouncement of sentence, stating that the defendant is sentenced to that place for imprisonment, commitment, placement, or execution, as the case may be. The order is authority for that place to hold the defendant pending receipt by that place of a copy of the written judgment.

(2) When a sheriff delivers the defendant to the place of confinement, commitment, or execution, the sheriff shall deliver at the same time all information in the possession of the sheriff regarding the physical and mental health of the defendant, including health information contained in a presentence investigation report."

And, as amended, do pass. Report adopted.

SB 140, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

1/13/2009

SB 74, introduced bill, be amended as follows:

1. Title, lines 5 and 6.

Strike: "FIRE CHIEF" on line 5

Strike: "ALLOWING" on line 5 through "STANDARDS;" on line 6

Insert: "REVISING REQUIREMENTS FOR PROVISION AND MANAGEMENT OF EMERGENCY SERVICES
BY A FIRE CHIEF;"

2. Page 1, line 20.

Strike: the first "as"

3. Page 1, lines 20 and 21.

Strike: "as practicable, considering agency budget and staffing limitations,"

4. Page 1, line 21.

Strike: "and other appropriate"

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

1/13/2009

SB 5, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: the first "THE"

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 13, 2009

Insert: "GIFT OR"

2. Page 3, line 3.

Following: "A"

Insert: "gift or"

3. Page 4, line 13.

Following: "A"

Insert: "gift or"

And, as amended, do pass. Report adopted.

SB 22, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "EFFORTS;"

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 1, line 14.

Following: the first "committee."

Insert: "(1)"

Following: the second "committee."

Strike: "The"

Insert: "Except as provided in subsection (2), the"

3. Page 1, line 16.

Strike: "(1)"

Insert: "(a)"

4. Page 1, line 17.

Strike: "(2)"

Insert: "(b)"

5. Page 1, line 18.

Strike: "(3)"

Insert: "(c)"

6. Page 1, line 20.

Strike: "(4)"

Insert: "(d)"

7. Page 1.

Following: line 20

Insert: "(2) At least two members of the committee must hold a water right in Montana and possess experience in agriculture."

8. Page 3.

Following: line 8

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 13, 2009

Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2009."
And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):
SB 72, introduced bill, be amended as follows:

1/13/2009

1. Page 1, line 13 through line 14.
Strike: "The" on line 13 through "69-3-105." on line 14

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):
SB 11, do pass. Report adopted.
SB 23, do pass. Report adopted.
SB 43, do pass. Report adopted.
SB 48, do pass. Report adopted.

1/13/2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 204, introduced by Moss, Steinbeisser, referred to Agriculture, Livestock and Irrigation.
SB 205, introduced by Brueggeman, Caferro, referred to Judiciary.
SB 206, introduced by Debby Barrett, referred to Natural Resources.
SB 207, introduced by Lewis, referred to Business, Labor, and Economic Affairs.
SB 208, introduced by Lewis, referred to Public Health, Welfare and Safety.
SB 209, introduced by Laslovich, Shockley, Jent, referred to Judiciary.
SB 210, introduced by Wanzenried, referred to Taxation.
SB 211, introduced by Wanzenried, referred to Taxation.
SB 212, introduced by Jackson, referred to Judiciary.
SB 213, introduced by Bales, Zinke, Shockley, Lewis, Debby Barrett, J. Tropila, Peterson, Curtiss, Ripley, Tutvedt, Steinbeisser, Brenden, Murphy, Hansen, Jackson, Gebhardt, Brown, Brueggeman, Laible, Black, Stahl, Kerns, Kasten, McNutt, Randall, Taylor, Hinkle, referred to Fish and Game.
SB 214, introduced by Steinbeisser, Welborn, Bales, Ripley, Brenden, Lewis, Zinke, Curtiss, Black, Story, Tutvedt, referred to Agriculture, Livestock and Irrigation.
SB 215, introduced by Steinbeisser, referred to Local Government.
SB 216, introduced by Laslovich, Debby Barrett, Welborn, referred to Education and Cultural Resources.
SB 217, introduced by Debby Barrett, Zinke, Stahl, Bales, Ripley, Steinbeisser, Laible, Brenden, Lewis, Murphy, T. Brown, Peterson, Brueggeman, referred to Agriculture, Livestock and Irrigation.
SB 218, introduced by McGee, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 13, 2009

SB 7 - Senator Gebhardt moved **SB 7** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 24 - Senator Williams moved **SB 24** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SR 1 - Senator J. Peterson moved **SR 1** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 13, 2009

SJR 1 - Senator J. Peterson moved **SJR 1** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Peterson moved to suspend the Rules and that **HB 1** be placed on second reading. Motion carried unanimously.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Story in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 1 - Senator Bales moved **HB 1** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 13, 2009

Excused: Windy Boy.
Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senator Peterson moved to suspend the rules and allow HB 1 to be heard on third reading. Motion carried unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 10 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 25 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SENATE JOURNAL
SEVENTH LEGISLATIVE DAY - JANUARY 13, 2009

HB 1 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SPECIAL ORDERS OF THE DAY

Senator Esp stated the Committee on Committees would be making some interim and special committee appointments and requested that interested Senators contact leadership and express their interest.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 14, 2009. Motion carried.

Senate adjourned at 1:35 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTH LEGISLATIVE DAY**

Helena, Montana
January 14, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 7, SB 11, SB 23, SB 24, SB 43, SB 48, SB 140, SB 204, SB 205, SB 206, SB 207, SB 208, SB 209, SB 210, SB 211, SB 212, SB 213, SB 214, SB 215, SB 216, SB 217, SB 218, SJR 1, SR 1.**

Correctly engrossed: **SB 5, SB 22, SB 35, SB 47, SB 54, SB 72, SB 74, SB 133.**

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):
SB 55, introduced bill, be amended as follows:

1/15/2009

We, your committee on Agriculture, Livestock and Irrigation recommend that Senate Bill 55 (first reading copy -- white) do pass as amended.

1. Title, page 1, line 11.

Following: "80-15-302, MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 20.

Following: line 15

Insert: "NEW SECTION. Section 18. Effective date. [This act] is effective July 1, 2009."

And, as amended, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):
SB 33, do pass. Report adopted.

1/15/2009

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):
SB 88, do pass. Report adopted.

1/15/2009

JUDICIARY (Perry, Chairman):

1/15/2009

SB 103, do pass. Report adopted.

SB 108, introduced bill, be amended as follows:

We, your committee on Judiciary recommend that Senate Bill 108 (first reading copy -- white) do pass as amended.

1. Page 2, line 16.

Following: "in"

Strike: "an"

Insert: "dismissal or in a discharge designated as"

Following: "dishonorable"

Strike: "discharge"

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 14, 2009

2. Page 5, line 8.

Strike: "an"

Insert: "dismissal or in a discharge designated as"

3. Page 5, line 9.

Following: "dishonorable"

Strike: "discharge"

4. Page 7, line 21.

Strike: "an"

Insert: "dismissal or in a discharge designated as"

Following: "dishonorable"

Strike: "discharge"

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

1/15/2009

SB 116, do pass. Report adopted.

ANNOUNCEMENTS

Sen. McGee announced he would be circulating a sheet for Senators to sign if they are interested in being chairman of the day.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 219, introduced by Squires, referred to State Administration.

SB 220, introduced by Lewis, referred to Local Government.

SB 221, introduced by M. Tropila, Laible, referred to Judiciary.

SB 222, introduced by Hansen, referred to Highways and Transportation.

SB 223, introduced by Juneau, Williams, Campbell, referred to Judiciary.

SB 224, introduced by R. Brown, Esp, referred to Business, Labor, and Economic Affairs.

SB 225, introduced by T. Brown, Murphy, Zinke, Brenden, Black, J. Peterson, Curtiss, Debby Barrett, Jackson, Hamlett, Bales, Steinbeisser, Ripley, R. Brown, Shockley, Gebhardt, Balyeat, Hinkle, referred to Highways and Transportation.

SB 226, introduced by Hawks, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 40 - Senator Juneau moved **SB 40** do pass.

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 14, 2009

SB 40 - Senator McGee moved **SB 40**, second reading copy, be amended as follows:

1. Page 4, line 9 through line 10.

Following: "part." on line 9

Strike: remainder of line 9 through "respondent." on line 10

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hawks, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 40 - Senator Juneau moved **SB 40** do pass as amended. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Cooney, Moss.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator McGee assumed the chair.

SB 42 - Senator Laslovich moved **SB 42** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 14, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Laslovich assumed the chair.

SB 73 - Senator Hawks moved **SB 73** do pass.

SB 73 - Senator Hawks moved **SB 73**, second reading copy, be amended as follows:

1. Page 14, line 9.

Strike: "(3)"

Insert: "(2)"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 73 - Senator Brueggeman moved **SB 73**, second reading copy, be further amended as follows:

1. Page 6, line 10.

Strike: "35"

Insert: "45"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 48

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 14, 2009

Nays: Esp, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 73 - Senator Hawks moved **SB 73**, as amended, do pass. Motion carried as follows:

Yeas: Barrett, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, Esp, Essmann, Hinkle, McGee, Peterson, Shockley, Tutvedt.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 125 - Senator Shockley moved **SB 125** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 141 - Senator J. Tropila moved **SB 141** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 14, 2009

Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Sen. Bales moved that SB 73 be re-referred to Finance and Claims. Motion carried as follows:
Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.
Total 36

Nays: Branae, Cooney, Erickson, Hamlett, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Wanzenried, Windy Boy.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 7 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 14, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 24 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 39 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 1 do pass as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

SENATE JOURNAL
EIGHTH LEGISLATIVE DAY - JANUARY 14, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 1 do pass as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Peterson asked that social announcements not be made on the Senate floor.

Senator Peterson clarified that, in accordance with the newly adopted Senate Rules, a sponsor will open on a bill and then amendments will be offered.

Senator J. Tropila announced the Montana National Guard Reception.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, January 15, 2009. Motion carried.

Senate adjourned at 2:04 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
NINTH LEGISLATIVE DAY**

Helena, Montana
January 15, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Wanzenried, excused. Quorum present.

COMMUNICATIONS AND PETITIONS

Secretary Miller read a letter to Representative Bob Bergren, Speaker of the House, and Senator Bob Story, President of the Senate, from Denise Juneau, Superintendent of Public Instruction, requesting an opportunity to address the Legislature on Friday, February 20, 2009.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Senator Curtiss, Chairman): 1/15/2009
Correctly printed: **SB 33, SB 42, SB 88, SB 103, SB 116, SB 125, SB 141, SB 219, SB 220, SB 221, SB 222, SB 223, SB 224, SB 225, SB 226.**
Correctly engrossed: **SB 40, SB 55, SB 73, SB 108.**

FINANCE AND CLAIMS (Bales, Chairman): 1/15/2009
SB 2, introduced bill, be amended as follows:
1. Page 4, line 17.
Strike: "15"
Insert: "1"

2. Page 4, line 18.
Strike: "5"
Insert: "10"

And, as amended, do pass. Report adopted.

SB 29, do pass. Report adopted.
SB 117, do pass. Report adopted.

JUDICIARY (Perry, Chairman): 1/15/2009
SB 139, do pass. Report adopted.
SB 157, introduced bill, be amended as follows:

1. Title, line 6.
Following: "COMMUNICATIONS"
Insert: "IN INITIAL HEARINGS"
Following: "COMMITMENT"
Strike: "PURPOSES"

2. Page 2, line 8 through line 10.
Strike: subsection (5) in its entirety
Insert: "(5) A two-way electronic audio-video communication may not be used:

SENATE JOURNAL
NINTH LEGISLATIVE DAY - JANUARY 15, 2009

(a) in an initial hearing provided for in 53-21-122 if the professional person objects; or
(b) in a hearing referred to in subsections (3)(b) through (3)(g) if a respondent or patient, the respondent's or patient's counsel, or the professional person objects."

And, as amended, do pass. Report adopted.

MOTIONS

Senator Gebhardt moved to re-refer SB 22 back to Natural Resources. Motion carries unanimously.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 227, introduced by R. Brown, referred to State Administration.

SB 228, introduced by Debby Barrett, referred to Fish and Game.

SB 229, introduced by Perry, referred to State Administration.

SB 230, introduced by Perry, referred to Judiciary.

SB 231, introduced by Laible, referred to Local Government.

SB 232, introduced by Squires, Erickson, Wanzenried, Williams, Larsen, Hansen, Juneau, Laslovich, Malek, Henry, Hamilton, Hiner, Fleming, Furey, Sands, referred to Agriculture, Livestock and Irrigation.

SB 233, introduced by Windy Boy, Murphy, Lewis, Jackson, Juneau, Gebhardt, Moss, Essmann, Stewart-Peregoy, Gillan, McNutt, Klock, Belcourt, Arntzen, Kottel, McAlpin, Hunter, Becker, Boss Ribs, Pease-Lopez, Augare, Campbell, Roundstone, referred to Public Health, Welfare and Safety.

SB 234, introduced by Gillan, R. Brown, Moss, Schmidt, Williams, Jent, Larsen, Hawks, Grinde, Becker, Calf Boss Ribs, Driscoll, K. Peterson, Roberts, Reinhart, Sands, Caferro, Van Dyk, MacDonald, Cohenour, referred to Business, Labor, and Economic Affairs.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 15, introduced by Tutvedt, Gebhardt, Steinbeisser, referred to Fish and Game.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 35 - Senator Jent moved **SB 35** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

SENATE JOURNAL
NINTH LEGISLATIVE DAY - JANUARY 15, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

SB 47 - Senator Steinbeisser moved **SB 47** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

SB 74 - Senator Laible moved **SB 74** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

SB 91 - Senator Juneau moved **SB 91** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
NINTH LEGISLATIVE DAY - JANUARY 15, 2009

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

SB 133 - Senator Kaufmann moved **SB 133** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 42 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

SENATE JOURNAL
NINTH LEGISLATIVE DAY - JANUARY 15, 2009

SB 125 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wanzenried.
Total 1

SB 141 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Wanzenried.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Sen. Bales announced that Senate Bills with a fiscal note of over \$25,000 would be referred to Finance and Claims.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, January 16, 2009. Motion carried.

Senate adjourned at 1:37 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TENTH LEGISLATIVE DAY**

Helena, Montana
January 16, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan and Laslovich, excused. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the fifth, sixth, and seventh legislative days, find the same to be correct.

Senator Curtiss, Chair

BILLS AND JOURNAL (Senator Curtiss, Chairman):

1/16/2009

Correctly printed: **SB 29, SB 35, SB 47, SB 74, SB 91, SB 117, SB 133, SB 139, SB 227, SB 228, SB 229, SB 230, SB 231, SB 232, SB 233, SB 234, SJR 15.**

Correctly engrossed: **SB 2, SB 157.**

Correctly enrolled: **SR 1.**

Delivered to the Secretary of State at 8:28 a.m., January 16, 2009: **SR 1.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

1/16/2009

SB 68, do pass. Report adopted.

SB 104, introduced bill, be amended as follows:

1. Page 1, line 17.

Strike: "a period of not"

Following: "~~less~~"

Insert: "at least 10 days and not"

Following: "30 days"

Insert: "after public notice is published as provided in subsection (2)"

2. Page 1, line 18.

Strike: "30-day"

Insert: "holding"

And, as amended, do pass. Report adopted.

SB 126, do pass. Report adopted.

SB 130, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

1/16/2009

SB 150, introduced bill, be amended as follows:

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 16, 2009

1. Title, page 1, line 10.

Strike: "MODIFYING" through the second "EMPLOYMENT;"

2. Title, page 1, line 16.

Strike: "39-51-204,"

3. Page 3, line 16 through page 7, line 28.

Strike: section 6 in its entirety

Renumber: subsequent sections

4. Page 19, line 11.

Following: "amount"

Insert: "of the overpaid benefits"

5. Page 19, line 12.

Following: "any"

Insert: ":

(a) penalty established in accordance with 39-51-3201; and

(b)"

6. Page 21, line 16.

Following: "[Sections"

Strike: "7" through "22"

Insert: "6 through 8, 10, 14, 15, and 20"

7. Page 21, line 17.

Strike: "13, and 14"

Insert: "12, 13, 19, and 21"

And, as amended, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

1/16/2009

SB 31, do pass. Report adopted.

SB 32, introduced bill, be amended as follows:

1. Title, line 6.

Following: "CHIROPRACTOR"

Insert: "AND A LICENSED PHYSICAL THERAPIST"

2. Page 3, line 8.

Following: "chiropractor,"

Insert: "a licensed physical therapist,"

3. Page 3, line 12.

Following: "chiropractor,"

Insert: "a licensed physical therapist,"

4. Page 3, line 15.

Following: "chiropractor,"

Insert: "a licensed physical therapist,"

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 16, 2009

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

1/16/2009

SB 96, introduced bill, be amended as follows:

1. Page 1, line 29.

Following: "defendant."

Strike: "Costs related to the evaluation must be paid in accordance with 46-14-202."

And, as amended, do pass. Report adopted.

SB 160, do pass. Report adopted.

SB 169, do pass. Report adopted.

SB 182, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/15/2009

HB 23, introduced by Himmelberger

HB 101, introduced by Welborn

HB 116, introduced by McNutt

HB 144, introduced by McAlpin

MOTIONS

Senator Esp. moved that Senator Williams and Senator Laslovich fill the vacancies on the Legislative Council. Motion carried unanimously.

Senator Esp moved that Senator Ripley fill the vacancy on the Legislative Finance Committee. Motion carried unanimously.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 235, introduced by Murphy, Ripley, Bales, Branae, J. Peterson, Campbell, Hunter, referred to Public Health, Welfare and Safety.

SB 236, introduced by Wanzenried, Williams, Erickson, Steinbeisser, R. Brown, Larsen, Kaufmann, French, Augare, Villa, Welborn, referred to Judiciary.

SB 237, introduced by Lewis, Cooney, McAlpin, MacDonald, Ebinger, K. Peterson, Furey, Driscoll, Sands, A. Noonan, Cohenour, Hendrick, O'Hara, French, Branae, Juneau, referred to Highways and Transportation.

SB 238, introduced by Brueggeman, referred to Finance and Claims.

SB 239, introduced by R. Brown, referred to State Administration.

SB 240, introduced by Brenden, T. Brown, Balyeat, Perry, Hinkle, Tutvedt, Debby Barrett, Ripley, Brenden, Murphy, Gebhardt, Lewis, Bales, Barkus, J. Peterson, referred to State Administration.

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 16, 2009

SPECIAL ORDERS OF THE DAY

Senator Brueggeman provided detailed instructions regarding access to the electronic agenda.

Sen. Cooney stated he is carrying a bill at the request of the family and friends of former Lieutenant Governor Karl Ohs to name a building at the Law Enforcement Academy after former Lieutenant Governor Ohs. Sen. Cooney invited anyone who was interested to sign the legislation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gallus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 5 - Senator Erickson moved **SB 5** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laslovich.

Total 1

SB 33 - Senator Lewis moved **SB 33** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laslovich.

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 16, 2009

Total 1

SB 45 - Senator McGee moved **SB 45** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laslovich.

Total 1

SB 55 - Senator Steinbeisser moved **SB 55** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

SB 103 - Senator Moss moved **SB 103** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 16, 2009

Total 0

Excused: Gillan, Laslovich.

Total 2

SB 108 - Senator Jent moved **SB 108** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

Senator Peterson moved passing SB 72 for the day. Motion carried unanimously.

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Gallus moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 35 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 16, 2009

SB 40 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Cooney, Juneau, Kaufmann, Moss, Stewart-Peregoy, M. Tropila, Wanzenried.
Total 7

Absent or not voting: None.
Total 0

Excused: Gillan, Laslovich.
Total 2

SB 47 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Laslovich.
Total 2

SB 74 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gillan, Laslovich.

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 16, 2009

Total 2

SB 91 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

SB 133 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Gillan, Laslovich.

Total 2

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Saturday, January 17, 2009. Motion carried.

Senate adjourned at 1:52 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

SENATE JOURNAL
TENTH LEGISLATIVE DAY - JANUARY 16, 2009

**SENATE JOURNAL
61ST LEGISLATURE
ELEVENTH LEGISLATIVE DAY**

Helena, Montana
January 17, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Laible and Laslovich, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

Correctly printed: **SB 5, SB 31, SB 33, SB 45, SB 55, SB 68, SB 103, SB 108, SB 126, SB 130, SB 160, SB 169, SB 182, SB 235, SB 236, SB 237, SB 238, SB 239, SB 240.**

Correctly engrossed: **SB 32, SB 96, SB 104, SB 150.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 84, introduced bill, be amended as follows:

1/17/2009

1. Page 7, line 8 through line 10.

Strike: subsection (2) in its entirety

Insert: "(2) The prison industries training program consists of vocational education, on-the-job training, and production experience. The Montana correctional enterprises program may contract with public and private educational entities to provide this training."

2. Page 7, line 12.

Strike: "work"

Following: "involving"

Insert: "within the prison system"

3. Page 7, line 19.

Following: "(v)"

Insert: "approved"

Following: "programs"

Insert: "for governmental entities and not-for-profit organizations"

4. Page 8, line 2.

Strike: " _"

Insert: ", except when the manufacture of the signs is in violation of a collective bargaining contract; and (e) provide for the manufacture of motor vehicle license plates and other related articles."

5. Page 8, line 4.

Following: "districts,"

Insert: "and"

Following: "organizations"

Strike: ", and the general public"

Following: "contracts"

Strike: ", sales,"

6. Page 8, line 5.

Following: "networks."

Insert: "Furniture, print, and sign shop products may be sold to the general public only through dealer networks."

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 17, 2009

And, as amended, do pass. Report adopted.

SB 86, do pass. Report adopted.

SB 194, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

1/17/2009

SB 98, introduced bill, be amended as follows:

1. Title, line 6.

Following: "TAX LEVY"

Insert: ";;"

2. Title, line 6 through line 7.

Strike: "OR" on line 6 through "DISTRICT;" on line 7

3. Title, line 8.

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "AND 7-12-4102"

4. Page 2, line 19 through page 5, line 6.

Strike: section 2 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/17/2009

HB 37, introduced by Campbell

HB 45, introduced by Ingraham

HB 54, introduced by Ingraham

HB 58, introduced by Ingraham

HB 76, introduced by P. Beck

HB 122, introduced by Menahan

HB 126, introduced by Augare

HB 138, introduced by Hunter

HB 181, introduced by K. Peterson

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 241, introduced by Balyeat, Ankney, Arntzen, B. Beck, P. Beck, Becker, Bennett, Berry, Boniek, D. Brown, Cohenour, Ebinger, Fleming, French, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Kasten, Kerns, Klock, MacLaren, McChesney, McClafferty, McGillvray, McNutt, Menahan, Milburn, Miller, More, K. Peterson, Randall, Regier, Roundstone, Sales, Sands, Sesso, Smith, Villa, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Bales, Balyeat, Debby Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gallus, Hamlett, Hansen, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, referred to State Administration.

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 17, 2009

SB 242, introduced by Balyeat, referred to Business, Labor, and Economic Affairs.

SB 243, introduced by Balyeat, Arntzen, Bales, Barkus, Debby Barrett, Bennett, Boniek, Brenden, T. Brown, Curtiss, Himmelberger, Jackson, Laible, McGillvray, McNutt, Murphy, Perry, K. Peterson, Randall, Ripley, Smith, Steinbeisser, Welborn, referred to State Administration.

SB 244, introduced by Balyeat, Arntzen, Bales, Barkus, Debby Barrett, Bennett, Berry, Black, Boniek, Brenden, R. Brown, T. Brown, Brueggeman, Cohenour, Curtiss, Ebinger, Gallus, Gebhardt, Hamlett, Himmelberger, Hinkle, Hoven, Jackson, Kasten, Kaufmann, Keane, Laible, Larsen, Laslovich, McGillvray, McNutt, Murphy, Perry, J. Peterson, K. Peterson, Sales, Smith, Steinbeisser, Wanzenried, Welborn, Zinke, referred to Taxation.

SB 245, introduced by Balyeat, Arntzen, Bales, Barkus, Debby Barrett, Berry, Black, Boniek, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Himmelberger, Hinkle, Hoven, Jackson, Kasten, Laible, McGee, McGillvray, McNutt, Perry, K. Peterson, Randall, Smith, Steinbeisser, Welborn, Zinke, referred to Finance and Claims.

SB 246, introduced by Perry, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gebhardt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 11 - Senator J. Peterson moved **SB 11** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible, Laslovich.

Total 2

SB 23 - Senator Wanzenried moved **SB 23** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 17, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: Laible, Laslovich.

Total 2

SB 43 - Senator Kaufmann moved **SB 43** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible, Laslovich.

Total 2

SB 48 - Senator Essmann moved **SB 48** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible, Laslovich.

Total 2

SB 116 - Senator Keane moved **SB 116** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 17, 2009

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Laible, Laslovich.
Total 2

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 5 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible, Laslovich.
Total 2

SB 33 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible, Laslovich.
Total 2

SB 45 passed as follows:

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 17, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Gebhardt.
Total 1

Absent or not voting: None.
Total 0

Excused: Laible, Laslovich.
Total 2

SB 55 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible, Laslovich.
Total 2

SB 103 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible, Laslovich.
Total 2

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 17, 2009

SB 108 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible, Laslovich.

Total 2

SPECIAL ORDERS OF THE DAY

Senator Barkus thanked the Pages for their work the week of January 12-17, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, January 19, 2009. Motion carried.

Senate adjourned at 8:41 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWELFTH LEGISLATIVE DAY**

Helena, Montana
January 19, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Laible, excused. Quorum present.

Correctly printed: **SB 11, SB 23, SB 43, SB 48, SB 86, SB 116, SB 194, SB 241, SB 242, SB 243, SB 244, SB 245, SB 246.**

Correctly engrossed: **SB 84, SB 98.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

1/19/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, January 17, 2009:

TITLE

NAME

Pages:

Jonathan Habel, Clancy
Kaitlyn Nolte, Colstrip
Chris Sobonya, Helena

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, January 19, 2009:

TITLE

NAME

Pages:

Corey Weber, Helena
Karin Thompson, Helena
Erik Andersen, Clancy
Ericka Metroka, Helena
Katherine Baum, Billings

Report Adopted.

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

1/19/2009

SB 41, do pass. Report adopted.

SB 67, do pass. Report adopted.

SB 165, introduced bill, be amended as follows:

1. Page 4, line 30.

Following: "July"

Strike: "30"

Insert: "20"

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

2. Page 5, line 5.

Following: "July"

Strike: "30"

Insert: "20"

3. Page 5, line 10.

Following: "~~40~~"

Strike: "30"

Insert: "20"

4. Page 12, line 8.

Following: "commissioners"

Strike: "on" through "August"

Insert: "by the second Friday in September"

5. Page 13, line 9.

Following: "commissioners"

Strike: "on"

Insert: "by"

6. Page 14, line 13.

Following: "commissioners"

Strike: "on"

Insert: "by"

7. Page 15, line 15.

Strike: "On or before July 30"

Insert: "No later than July 20"

8. Page 15, line 24.

Following: "**budget.**"

Strike: "Before the second Monday of August"

Insert: "On or before August 20"

9. Page 19, line 6.

Following: "commissioners"

Strike: "on"

Following: "**August**"

Strike: "or before"

Insert: "by"

And, as amended, do pass. Report adopted.

SJR 2, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

1/19/2009

SB 26, introduced bill, be amended as follows:

1. Page 1, line 18 through line 19.

Following: "accreditation by" on line 18

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

Strike: remainder of line 18 through "or" on line 19
Insert: "organizations that accredit hospitals or by"

2. Page 1, line 20.

Following: "hospital" on line 20

Insert: "or an outpatient center for surgical services"

3. Page 2, line 6 through line 12.

Following: "may" on line 6

Strike: remainder of line 6 through "(b)" on line 12

4. Page 2, line 20.

Strike: "(i)"

5. Page 2, line 24 through line 26.

Strike: subsection (3)(b)(ii) in its entirety

6. Page 3, lines 4 and 5.

Strike: "equitable" on line 4

Following: "requirements" on line 4

Strike: remainder of line 4 through "The" on line 5

Insert: "if the"

Following: "requirements" on line 5

Strike: "may"

Insert: "do"

Following: "violate the" on line 5

Insert: "unfair trade practices and consumer protection"

7. Page 3, line 6.

Following: "30-14-103"

Strike: " - "

Following: " - ;"

Insert: "or Title 30, chapter 14, part 2;"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

Secretary Miller read a letter from the Honorable Brian Schweitzer listing the following interim board and commission appointments and requiring confirmation by the Montana Senate:

AIR POLLUTION CONTROL ADVISORY COUNCIL

Don Potts, Missoula

Bovard Tiberi, Bozeman

ALTERNATIVE HEALTH CARE BOARD

Kathleen Stevens, Billings

Nancy Aagenes, Helena

Margaret Beeson, Billings

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS

Carl Thuesen, Billings
Shelly Engler, Bozeman
Teresa Wilson, Butte
Bayliss Ward, Bozeman

MONTANA ARTS COUNCIL

Jackie Parsons, Browning
Kathleen Schlepp, Miles City
Arlene Parisot, Helena
Tracy Linder, Molt
Corwin "Corky" Clairmont, Ronan
Jane Deshner, Billings

BOARD OF BANKING

Evelyn Casterlin, Vida
Mark Huber, Helena
Carolyn Colman, Great Falls
John King, Kalispell

BOARD OF BARBERS AND COSMETOLOGISTS

Maggie Burton-Blize, Missoula
Angela Printz, Livingston
Jamie Ausk Crisafulli, Glendive
Wendell Petersen, Missoula
William A. Graves, Great Falls
Maxine Collins, Helena
Delores Lund, Plentywood

CAPITAL INVESTMENT BOARD

Gary Buchanan, Billings
Robert W. Minto, Missoula
Robert Pancich, Great Falls
Lawrence A. Anderson, Great Falls
Ellen Feaver, Helena

BOARD OF CHIROPRACTORS

Scott Hansing, Helena

CLINICAL LABORATORY SCIENCE PRACTITIONERS

Rosemary Shively, Helena
Charlene Staffanson, Deer Lodge
Barbara Henderson, Miles City

COUNTY PRINTING BOARD

Dan Killoy, Miles City
Gary A. Macdonald, Wolf Point
Calvin J. Oraw, Sidney
Marianne Roose, Eureka
Milton Wester, Laurel

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

BOARD OF DENTISTRY

Aimee R. Ameline, Great Falls

ELECTRICAL BOARD

Marlene Egan, Helena

Jack Fisher, Butte

FACILITY FINANCE AUTHORITY

Matthew B. Thiel, Missoula

BOARD OF FUNERAL SERVICE

Ronald E. Brothers, Hamilton

Bart Thompson, Helena

John Tarr, Helena

William Cronin, Havre

BOARD OF HAIL INSURANCE

Gary Gollehon, Brady

BOARD OF HEARING AID DISPENSERS

Stephen Kramer, Billings

Gene W. Bukowski, Billings

MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES

Sharon Lincoln, Billings

Janene Caywood, Missoula

Ed Smith, Helena

BOARD OF HORSERACING

Susan Austin, Kalispell

Charles (Al) Carruthers, Butte

John Ostlund, Billings

Ray "Topper" Tracy, Stevensville

Susan Egbert, Helena

BOARD OF LIVESTOCK

Brett DeBruycker, Dutton

LIVESTOCK LOSS REDUCTION AND MITIGATION BOARD

Elaine Allestad, Big Timber

Larry Trexler, Hamilton

Hilliard McDonald, Judith Gap

Janelle Holden, Livingston

Brad Radtke, Drummond

Whitney Wankel, Bozeman

James Cross, Kalispell

BOARD OF MEDICAL EXAMINERS

Patrick Boylan, Corvallis

James Upchurch, Hardin

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

Mary Anne Guggenheim, Helena
Dean Center, Bozeman

BOARD OF NURSING

Sharon Dschaak, Wolf Point
Laura Weiss, Great Falls
Kathy Hayden, Missoula
Heather Onstad, Helena

BOARD OF NURSING HOME ADMINISTRATORS

Carla Neiman, Plains
Ken Chase, Billings
Joshua Brown, Columbia Falls
Thomas Klotz, Glasgow

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Amy J. Gilbertson, Great Falls

BOARD OF OPTOMETRY

Delores Hill, Mosby
Douglas Kimball, Bozeman
Randall Hoch, Lewistown

BOARD OF PERSONNEL APPEALS

Jack A. Holstrom, Helena
Quinton Nyman, Helena

BOARD OF PHARMACY

Susan Hagan, Glasgow
Frances Carlson, Great Falls
Rebekah Matovich, Billings
Lee Ann Bradley, Missoula

BOARD OF PHYSICAL THERAPY EXAMINERS

Robin Peterson Smith, Billings
Ron Peterson, Cascade
Richard Smith, Missoula

BOARD OF PLUMBERS

David Lindeen, Huntley
Debi Friede, Havre
Steve Carey, Frenchtown
Marc Golz, Helena
Scott Lemert, Livingston
Jeffrey Gruizenga, Billings

PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS BOARD

John Santa, Kalispell
Mary Alexine, Eureka
Darcie Kelly, Helena

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

Penny James, Trout Creek
Tim Callahan, Great Falls

BOARD OF PRIVATE SECURITY

Mark Chaput, Billings
Raymond Murray, Missoula
Holly Dershem-Bruce, Glendive

PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Casey E. Johnston, Butte
Vic Cundy, Bozeman
James Hahn, Billings
Tom Tanner, Arlee

BOARD OF PSYCHOLOGISTS

Marla Lemons, Butte
Linda Holden, Valier
Susan Mattocks, Miles City

BOARD OF PUBLIC ACCOUNTANTS

Beatrice Rosenleaf, Anaconda
Jack Meyer, Missoula

BOARD OF PUBLIC EDUCATION

Bernard Olson, Lakeside

PUBLIC EMPLOYEES RETIREMENT BOARD

Dianna Porter, Butte
Darcy Halpin, Belgrade
Loren Bough, Big Sky

PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Winnie Ore, Helena
Mike Anderson, Havre
Bonnie Wallem, Kalispell
Mike Reddick, Helena
James Marble, Stevensville
Tony Harbaugh, Miles City
Steve Barry, Helena
Levi Talkington, Lewistown
Dennis McCave, Billings
Frances Weeks, Poplar
Robert McCarthy, Butte
Raymond Murray, Missoula
Hannah Tillman, Crow Agency

BOARD OF RADIOLOGIC TECHNOLOGISTS

Mike Nielsen, Billings

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

BOARD OF REAL ESTATE APPRAISERS

Dennis Hoeger, Bozeman
Jennifer McGinnis, Polson
Marilyn Rose, Great Falls
Peter Fontana, Great Falls
Kraig P. Kosena, Missoula

BOARD OF REALTY REGULATION

Shirley McDermott, Laurel
C.E. "Abe" Abramson, Missoula
Connie Wardell, Billings
Larry Milless, Corvallis
Pat M. Goodover II, Great Falls

BOARD OF REGENTS

Clayton Christian, Missoula
Mitchell Jessen, Dillon

RESEARCH AND COMMERCIALIZATION TECHNOLOGY BOARD

Jim Davison, Anaconda

BOARD OF RESPIRATORY CARE PRACTITIONERS

Thomas Fallang, Butte
Carl Hallenborg, Helena

BOARD OF SANITARIANS

James Zabrocki, Miles City
Kathleen Driscoll, Hamilton
Gene Townsend, Three Forks
Gerald Cormier, Billings

BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS

Ann Gilkey, Helena
Linda Crummett, Billings
Treasa Glinnwater, Ronan
John Lynn, Missoula
Henry Pretty On Top, Lodge Grass

BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Sharon Dinstel, Colstrip
James L. Sias, Ronan
Cheri Fjare, Big Timber
Tina Hoagland, Billings
Lynn Harris, Missoula

STATE COMPENSATION INSURANCE FUND BOARD

Joe Dwyer, Billings
Wallace M. Yovetich, Billings
Boyd Taylor, Butte
Thomas R. Heisler, Great Falls

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

STATE TAX APPEALS BOARD

Karen E. Powell, Helena

TRANSPORTATION COMMISSION

Barb Skelton, Billings

Rick Griffith, Butte

Diann Seymour-Winterburn, Helena

BOARD OF VETERANS' AFFAIRS

C.E. Crookshanks, Missoula

Lloyd Jackson, Pablo

Bob Pavlovich, Butte

Harvey Rattey, Glendive

James Heffernan, Helena

Donald Kettner, Glendive

BOARD OF VETERINARY MEDICINE

Barbara Calm, Kila

Kim K. Baker, Hot Springs

Jean Lindley, Miles City

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/17/2009

HB 19, introduced by Ingraham

HB 24, introduced by Morgan

HB 136, introduced by Boland

HB 146, introduced by MacLaren

HB 149, introduced by Menahan

HB 151, introduced by Becker

MOTIONS

Senator Peterson moved that SB 68 be returned to the Agriculture, Livestock and Irrigation Committee. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 247, introduced by Bales, Black, T. Brown, Cohenour, Cooney, Ebinger, Hollandsworth, Jackson, Jones, Laible, Regier, Ripley, Schmidt, Stewart-Peregoy, Vincent, referred to Business, Labor, and Economic Affairs.

SB 248, introduced by Brueggeman, Ankney, Furey, Lewis, J. Tropila, Zinke, referred to Education and Cultural Resources.

SB 249, introduced by Curtiss, Bennett, McGee, Shockley, Vincent, referred to Judiciary.

SB 250, introduced by Wanzenried, referred to Judiciary.

SB 251, introduced by Wanzenried, Augare, Bales, Calf Boss Ribs, Branae, Cohenour, Cooney, Driscoll, Erickson, Fleming, Grinde, Hamilton, Hollenbaugh, Jent, Juneau, Kaufmann, Keane, McClafferty, P. Noonan, Phillips, Stewart-Peregoy, Villa, Williams, Wilmer, referred to Business, Labor, and Economic Affairs.

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Jent in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 72 - Senator Laslovich moved **SB 72** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 2 - Senator Cooney moved **SB 2** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 29 - Senator Wanzenried moved **SB 29** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke,

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 54 - Senator Steinbeisser moved **SB 54** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 88 - Senator M. Tropila moved **SB 88** do pass. Senator M. Tropila moved **SB 88**, second reading copy, be amended as follows:

1. Page 14, line 9.

Following: "limits"

Insert: "or establish or alter area of school zone"

2. Page 15.

Following: line 6

Insert: "(6) A local jurisdiction establishing or altering the area of a school zone shall consult with the department of transportation and the commission if the school zone includes a state highway or a federal-aid highway or extension of a federal-aid highway."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 88 - Senator M. Tropila moved **SB 88**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 139 - Senator Perry moved **SB 139** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 42

Nays: Erickson, Gallus, Kaufmann, Keane, Stewart-Peregoy, Williams, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 157 - Senator Shockley moved **SB 157** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Jent moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Bales moved that SB 157 be re-referred to Finance and Claims. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 11 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 23 passed as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 43 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 48 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 116 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

SENATE JOURNAL
TWELFTH LEGISLATIVE DAY - JANUARY 19, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

UNFINISHED BUSINESS

Senator Hansen moved that Representative Warburton's name be added to SB 8 and SJR 6. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator R. Brown introduced the Pages for the week of January 19-24, 2009.

Senator Peterson announced the Republicans would caucus upon adjournment of the Senate.

ANNOUNCEMENTS

Senator Gebhardt announced that until transmittal, the Joint Select Committee on Reappraisal would meet on Tuesdays and Fridays at 9:00 a.m. in Room 335.

Senator Kaufmann reminded the Senate about recycling opportunities on the Senate floor.

Senator Williams announced inauguration activities being held in the Capitol on January 20, 2009.

President Story stated that requests for fiscal notes or revised fiscal notes should be made through the Secretary of Senate's Office.

President Story requested that Senators wishing to speak during second reading stand and be recognized and not raise their microphones.

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 20, 2009. Motion carried.

Senate adjourned at 1:55 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTEENTH LEGISLATIVE DAY**

Helena, Montana
January 20, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Laible, excused. Quorum present.

BILLS AND JOURNAL (Senator Curtiss, Chairman):

1/20/2009

Correctly printed: **SB 2, SB 29, SB 41, SB 54, SB 67, SB 72, SB 139, SB 157, SB 247, SB 248, SB 249, SB 250, SB 251, SJR 2.**

Correctly engrossed: **SB 26, SB 88, SB 165.**

Senator McGee directed the Senate members to the new script for second reading.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

1/20/2009

SJR 6, do pass. Report adopted.

SB 89, do pass. Report adopted.

SB 127, introduced bill, be amended as follows:

1. Title, page 1, lines 6 through 7.

Strike: "DEFINING" on line 6 through "PURPOSES" on line 7

Insert: "PROVIDING DEFINITIONS"

Following: "33-2-306," on line 7

Insert: "33-17-102,"

2. Title, page 1, line 8.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

3. Page 3.

Following: line 17

Insert: "**Section 4.** Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this title, the following definitions apply:

(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.

(b) The term does not include a:

(i) licensed attorney who is qualified to practice law in this state;

(ii) salaried employee of an insurer or of a managing general agent;

(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer;

(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or

(v) claims examiner as defined in 39-71-116.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

adjuster.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.

(b) The term does not include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by the insurer in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

(B) a health service corporation as defined in 33-30-101;

(iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;

(vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;

(viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;

(ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;

(x) a company that issues credit cards and that advances for and collects premiums or charges from the company's credit card holders who have authorized the company to do so, if the company does not adjust or settle claims;

(xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or

(xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.

(4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.

(5) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(b) The term does not include an individual.

(6) "Consultant" means an individual who for a fee examines, appraises, reviews, evaluates, makes recommendations, or gives advice regarding an insurance policy, annuity, or pension contract, plan, or program.

(7) "Consultant license" means a document issued by the commissioner that authorizes an individual to act as an insurance consultant.

(8) "Home state" means the District of Columbia or any state or territory of the United States in which the insurance producer:

(a) maintains a principal place of residence or a principal place of business; and

(b) is licensed as an insurance producer.

~~(8)(9)~~ "Individual" means a natural person.

~~(9)(10)~~ "Insurance producer", except as provided in 33-17-103, means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

~~(10)(11)~~ "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

~~(11)(12)~~ "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

~~(12)~~(13) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

~~(13)~~(14) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(14)~~(15) "Limited lines insurance" means those lines of insurance that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

~~(15)~~(16) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(16)~~(17) "Lines of authority" means any kind of insurance as defined in Title 33.

~~(17)~~(18) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

~~(18)~~(19) "Person" means an individual or a business entity.

~~(19)~~(20) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

~~(20)~~(21) "Sell" means to exchange a contract of insurance by any means, for money or the equivalent, on behalf of an insurance company.

~~(21)~~(22) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

~~(22)~~(23) "Suspend" means to bar the use of a person's license for a period of time.

~~(23)~~(24) "Uniform application" means the national association of insurance commissioners' uniform application for resident and nonresident insurance producer licensing.

~~(24)~~(25) "Uniform business entity application" means the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

Renumber: subsequent sections

4. Page 4, line 22.

Following: " ; "

Insert: "or"

5. Page 4, line 23 through line 26.

Strike: " ; or " on line 23 through "licensure" on line 26

6. Page 7, line 29.

Following: "credits"

Insert: "and at least 1 credit hour on changes in Montana insurance statutes and administrative rules"

7. Page 8, line 1.

Following: "education"

Insert: " , including at least 1 credit hour on changes in Montana insurance statutes and administrative rules and the remaining credit hours "

8. Page 8, line 2 through line 5.

Strike: " ; " on line 2 through "rules" on line 5

9. Page 8.

Following: line 12

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

Insert: "NEW SECTION. Section 10. Applicability. [Section 8] applies to 24-month periods for obtaining continuing education beginning on or after January 1, 2010."

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

1/20/2009

SB 171, introduced bill, be amended as follows:

1. Page 1, line 9.

Following: "tenant"

Insert: "purposely or knowingly"

2. Page 1, line 10.

Following: "premises"

Strike: "or permits any person to do so"

3. Page 1, line 11.

Following: "70-24-321(2)"

Insert: "or 70-33-321(3)"

4. Page 1, line 13 through line 14.

Following: "both." on line 13

Strike: remainder of line 13 through "section." on line 14

5. Page 1, line 16.

Following: "under"

Strike: "this chapter"

Insert: "Title 70, chapter 24 or 33"

6. Page 1, line 18 through line 30.

Strike: sections 2 and 3 in their entirety

Insert: "NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 6, part 1, and the provisions of Title 45, chapter 6, part 1, apply to [section 1]."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

1/20/2009

SB 34, introduced bill, be amended as follows:

1. Page 1, line 18.

Following: "fuel"

Insert: ", including noxious weeds,"

And, as amended, do pass. Report adopted.

SB 78, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

1/20/2009

SB 22, do pass. Report adopted.

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

1/20/2009

SB 53, do pass. Report adopted.

SB 77, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

1/20/2009

SB 20, introduced bill, be amended as follows:

1. Page 2, line 20 through line 22.

Strike: "However" on line 20 through "construction." on line 22

Following: line 22

Insert: "(3) A rule is presumptively invalid if promulgation of the rule failed to comply with 2-4-305(6)(b).

And, as amended, do pass. Report adopted.

SB 155, introduced bill, be amended as follows:

1. Page 2, line 8.

Following: "race"

Insert: ", if any"

And, as amended, do pass. Report adopted.

SB 156, do pass. Report adopted.

SB 196, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "ESTABLISHING" through "HOLIDAY"

Insert: "DESIGNATING THE LAST FRIDAY OF SEPTEMBER AS A DAY"

2. Title, page 1, line 5.

Strike: "; AND" through "MCA"

3. Page 1, line 21.

Following: "day is"

Insert: "the last Friday in"

Strike: "30"

4. Page 1, line 27 through page 2, line 14.

Strike: section 2 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/19/2009

HB 100, introduced by Steenson

HB 107, introduced by Hiner

HB 112, introduced by Sesso

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

HB 120, introduced by McChesney

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 252, introduced by Cooney, Cohenour, Ankney, Arntzen, Augare, Bales, Balyeat, Barkus, Debby Barrett, B. Beck, P. Beck, Becker, Belcourt, Bennett, Black, Blewett, Boland, Branae, Brenden, D. Brown, T. Brown, Butcher, Caferro, Cohenour, Dickenson, Erickson, Esp, Essmann, French, Furey, Gallus, Gebhardt, Gillan, Grinde, Hamlett, Hansen, Hawk, Hawks, Henry, Hinkle, Hollandsworth, Ingraham, Jackson, Jent, Kasten, Kaufmann, Keane, Klock, Laible, Lake, Larsen, Laslovich, Lewis, MacDonald, MacLaren, McGee, McGillvray, McNutt, Menahan, Mendenhall, Miller, More, Morgan, Moss, Murphy, Nooney, O'Hara, Perry, J. Peterson, K. Peterson, Pomnichowski, Randall, Regier, Reichner, Ripley, Roberts, Shockley, Smith, Squires, Stahl, Steinbeisser, Stewart-Peregoy, Stoker, Story, Taylor, J. Tropila, Tutvedt, Van Dyk, Vance, Villa, Vincent, Wanzenried, Warburton, Williams, Windy Boy, Zinke, referred to State Administration.

SB 253, introduced by Steinbeisser, referred to Business, Labor, and Economic Affairs.

SB 254, introduced by Steinbeisser, referred to Business, Labor, and Economic Affairs.

SB 255, introduced by Tutvedt, referred to Local Government.

SB 256, introduced by Shockley, referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 31 - Senator Bales moved **SB 31** do pass.

SB 31 - Senator Gallus moved **SB 31** be passed for the day. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 31 - Senator Bales moved **SB 31** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann,

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

Gebhardt, Hamlett, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 21

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 32 - Senator Barkus moved **SB 32** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 84 - Senator Gillan moved **SB 84** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 86 - Senator J. Tropila moved **SB 86** do pass. Motion carried as follows:

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 96 - Senator Jent moved **SB 96** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 98 - Senator Keane moved **SB 98** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Hinkle.

Total 1

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

SB 104 - Senator Esp moved **SB 104** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 150 - Senator Brueggeman moved **SB 150** do pass. Motion carried as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, McGee, Perry, Peterson, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 169 - Senator Gebhardt moved **SB 169** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Gallus.

Total 1

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 2 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible.

Total 1

SB 29 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke,

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

Mr. President.
Total 48

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 54 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 72 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

SB 139 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
THIRTEENTH LEGISLATIVE DAY - JANUARY 20, 2009

Erickson, Esp, Essmann, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Jent, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Williams, Zinke, Mr. President.
Total 39

Nays: Gallus, Hamlett, Juneau, Kaufmann, Keane, Squires, Stewart-Peregoy, Tutvedt, Wanzenried, Windy Boy.
Total 10

Absent or not voting: None.
Total 0

Excused: Laible.
Total 1

UNFINISHED BUSINESS

Sen. Balyeat moved to add Rep. Vance as a sponsor to SB 241. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Williams acknowledged the inauguration of U.S. President Barack Obama.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 21, 2009. Motion carried.

Senate adjourned at 2:47 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FOURTEENTH LEGISLATIVE DAY**

Helena, Montana
January 21, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gallus, Laible, and Squires, excused. Quorum present.

Correctly printed: **SB 22, SB 31, SB 32, SB 53, SB 77, SB 78, SB 84, SB 86, SB 89, SB 96, SB 98, SB 104, SB 150, SB 156, SB 169, SB 252, SB 253, SB 254, SB 255, SB 256, SJR 6.**

Correctly engrossed: **SB 20, SB 34, SB 127, SB 155, SB 171, SB 196.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman): 1/21/2009
SB 68, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 1/21/2009
SB 161, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman): 1/21/2009
SB 152, introduced bill, be amended as follows:

1. Page 1, lines 14 and 15.

Strike: "REVISING" on line 14 through "COMMENCES;" on line 15

2. Page 12, line 14 through line 15.

Strike: "that the department receives notice from a court or another licensing jurisdiction that the person has been convicted"

Insert: "of conviction or forfeiture of bail"

And, as amended, do pass. Report adopted.

SB 168, introduced bill, be amended as follows:

1. Page 1, line 6 through line 7.

Strike: "WITHOUT" on line 6 through "STUDY" on line 7

2. Page 1, line 22.

Following: "device"

Insert: "that conforms to the sign manual adopted in 61-8-202"

3. Page 2, line 18.

Following: "highway is a controlled-access highway,"

Strike: "without an engineering and traffic investigation"

Insert: "provided that an engineering and traffic investigation is completed by the municipality prior to changing the speed permitted under 61-8-303,"

SENATE JOURNAL
FOURTEENTH LEGISLATIVE DAY - JANUARY 21, 2009

4. Page 2, line 19.

Following: "61-8-303."

Insert: "The municipality is responsible for any mitigation costs of the engineering and traffic investigation recommendations."

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

1/21/2009

SB 197, introduced bill, be amended as follows:

1. Page 1, line 18.

Following: "transcript -"

Insert: "\$2 per page for the original furnished to a state or local government agency,"

Following: "original"

Insert: "furnished to any other party"

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

1/21/2009

SB 115, do pass. Report adopted.

SB 181, do pass. Report adopted.

MOTIONS

Senator Peterson moved to reconsider adoption of the Committee of the Whole Report on January 20, 2009. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.

Total 41

Nays: Juneau, Laslovich, Stewart-Peregoy, J. Tropila, Wanzenried, Windy Boy.

Total 6

Absent or not voting: None.

Total 0

Excused: Gallus, Laible, Squires.

Total 3

Sen. Peterson moved to segregate SB 150 from the Committee of the Whole Report. Motion carried.

Sen. Peterson moved to adopt the Committee of the Whole Report from January 20, 2009. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

SENATE JOURNAL
FOURTEENTH LEGISLATIVE DAY - JANUARY 21, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus, Laible, Squires.
Total 3

Sen. Peterson moved to reassign SB 150 to Business, Labor, and Economic Affairs. Motion carried.

The following Senate bills were introduced, read first time, and referred to committees:

SB 257, introduced by Keane, Ankney, Arntzen, Augare, Barkus, Debby Barrett, Becker, Belcourt, Calf Boss Ribs, D. Brown, R. Brown, T. Brown, Brueggeman, Campbell, Driscoll, Gallus, Gebhardt, Hiner, Hinkle, Hollenbaugh, Ingraham, Jent, Jones, Klock, Kottel, Laslovich, McClafferty, McGee, McGillvray, Mendenhall, Miller, Murphy, A. Noonan, O'Hara, Perry, J. Peterson, Roundstone, Sands, Schmidt, Sesso, Shockley, Stahl, Steinbeisser, Taylor, Tutvedt, Villa, Vincent, Wagner, Wanzenried, Warburton, Welborn, Windy Boy, Zinke, referred to Energy and Telecommunications.

SB 258, introduced by Kaufmann, referred to Taxation.

SB 259, introduced by Kaufmann, referred to Taxation.

SB 260, introduced by Gillan, Gebhardt, Lake, A. Noonan, referred to Taxation.

SB 261, introduced by Wanzenried, referred to Local Government.

SB 262, introduced by Wanzenried, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Schmidt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Gallus present.

SB 41 - Senator Lewis moved **SB 41** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
FOURTEENTH LEGISLATIVE DAY - JANUARY 21, 2009

Excused: Laible, Squires.
Total 2

SB 126 - Senator Murphy moved **SB 126** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible, Squires.
Total 2

SB 140 - Senator Perry moved **SB 140** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: McGee, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Laible, Squires.
Total 2

Senator Peterson moved SB 165 be passed for the day. Motion carried.

SB 182 - Senator Esp moved **SB 182** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

SENATE JOURNAL
FOURTEENTH LEGISLATIVE DAY - JANUARY 21, 2009

Absent or not voting: None.
Total 0

Excused: Laible, Squires.
Total 2

SB 194 - Senator McGee moved **SB 194** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 23

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 25

Absent or not voting: None.
Total 0

Excused: Laible, Squires.
Total 2

SB 194 - Senator Williams moved **SB 194** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 27

Nays: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt.
Total 21

Absent or not voting: None.
Total 0

Excused: Laible, Squires.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Schmidt moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Curtiss, Gillan, McGee, Schmidt, Shockley.

SENATE JOURNAL
FOURTEENTH LEGISLATIVE DAY - JANUARY 21, 2009

Total 5

Absent or not voting: None.

Total 0

Excused: Laible, Squires.

Total 2

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 31 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 20

Absent or not voting: None.

Total 0

Excused: Laible, Squires.

Total 2

SB 32 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible, Squires.

Total 2

SB 84 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
FOURTEENTH LEGISLATIVE DAY - JANUARY 21, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Laible, Squires.

Total 2

SB 86 passed as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 46

Nays: Esp, Mr. President.

Total 2

Absent or not voting: None.

Total 0

Excused: Laible, Squires.

Total 2

SB 88 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible, Squires.

Total 2

SB 96 passed as follows:

SENATE JOURNAL
FOURTEENTH LEGISLATIVE DAY - JANUARY 21, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible, Squires.
Total 2

SB 98 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Hinkle, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Laible, Squires.
Total 2

SB 104 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laible, Squires.
Total 2

SENATE JOURNAL
FOURTEENTH LEGISLATIVE DAY - JANUARY 21, 2009

SB 169 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Laible, Squires.

Total 2

SPECIAL ORDERS OF THE DAY

Senator Peterson stated preparations are underway for the annual memorial service, which recognizes and remembers former legislators who have passed away in the past two years. Anyone interested in participating on the committee should speak with Secretary Miller.

Senator Peterson stated he was notified by Legislative Services Division that they have a number of bills that are on hold and or ready to be picked up. Senator Peterson encouraged Senators to keep their bills moving.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, January 22, 2009. Motion carried.

Senate adjourned at 1:56 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTEENTH LEGISLATIVE DAY**

Helena, Montana
January 22, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the eighth, ninth, tenth, and eleventh legislative days, find the same to be correct.

Senator Curtiss, Chair

Correctly printed: **SB 41, SB 68, SB 115, SB 126, SB 140, SB 161, SB 181, SB 182, SB 257, SB 258, SB 259, SB 260, SB 261, SB 262.**

Correctly engrossed: **SB 152, SB 168, SB 197.**

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

1/21/2009

SJR 4, introduced joint resolution, be amended as follows:

1. Page 1, line 12 through line 14.

Strike: line 12 through line 14

2. Page 1, line 23.

Following: "examine"

Strike: "possible"

Insert: "cost-benefit"

Following: "options"

Strike: "for further consolidation of"

Insert: "and provide recommendations for improving"

3. Page 1, line 25.

Following: "explore"

Strike: "possible"

Insert: "cost-benefit"

Following: "options"

Strike: "for further consolidation of"

Insert: "and provide recommendations for improving"

And, as amended, be adopted. Report adopted.

SJR 8, introduced joint resolution, be amended as follows:

1. Page 1, line 24.

Following: "line 23"

Insert: "WHEREAS, Article X, section 8, of the Montana Constitution states that the elected board of trustees in each school district shall exercise supervision and control of schools in the district; and"

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

And, as amended, be adopted. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman): 1/21/2009
SB 215, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman): 1/21/2009
SB 111, do pass. Report adopted.
SB 131, introduced bill, be amended as follows:

1. Title, line 9 through line 10.
Following: "INCREASED FEES"
Strike: "OR" on line 9 through "PREMIUMS" on line 10

2. Title, line 11.
Strike: "AMENDING SECTION 33-24-102, MCA;"

3. Page 2, line 8.
Strike: "(a)"

4. Page 2, lines 10 and 11.
Strike: subsection (3)(b) its entirety

5. Page 2, line 18 through line 28.
Strike: section 2 in its entirety
Renumber: subsequent sections

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman): 1/21/2009
SJR 13, do pass. Report adopted.
SJR 14, do pass. Report adopted.

TAXATION (Essmann, Chairman): 1/21/2009
SB 21, introduced bill, be amended as follows:

1. Title, page 1, line 9 through line 12.
Strike: "PROVIDING" on line 9 through "DISTRIBUTIONS;" on line 12
Following: "PROVIDING" on line 12
Insert: "AN"
Strike: "DATES" on line 12
Insert: "DATE"

2. Page 3, line 7 through page 3, line 14.
Strike: sections 2 and 3 in their entirety
Renumber: subsequent sections

3. Page 3, line 16 through line 18.
Strike: "dates" on line 16

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Insert: "date"

Strike: "(1)" on line 16 through "1]" on line 18

Insert: "[This act]"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 1/21/2009

HB 57, introduced by Bean

HB 62, introduced by Hamilton

HB 67, introduced by Belcourt

HB 127, introduced by Sesso

HB 155, introduced by Pomnichowski

House joint resolution passed and transmitted to the Senate for concurrence: 1/21/2009

HJR 6, introduced by Lake

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 263, introduced by Shockley, Sales, Stoker, referred to Judiciary.

SB 264, introduced by Brueggeman, referred to Taxation.

SB 265, introduced by T. Brown, referred to Taxation.

SB 266, introduced by Cooney, Hamilton, Branae, Hawks, Hollenbaugh, Keane, Laslovich, McAlpin, A. Noonan, Sands, Schmidt, Villa, Williams, Wilson, referred to Education and Cultural Resources.

SB 267, introduced by Hamlett, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Perry in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 165 - Senator Lewis moved **SB 165** do not pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke.
Total 48

Nays: None.
Total 0

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Absent or not voting: Williams, Mr. President.
Total 2

Excused: None.
Total 0

SB 22 - Senator Murphy moved **SB 22** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Brenden, Cooney, Esp, Hinkle, Laslovich.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 77 - Senator Juneau moved **SB 77** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 89 - Senator M. Tropila moved **SB 89** do pass. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 36

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Essmann, Hinkle, Laible, McGee, Perry, Tutvedt, Mr. President.

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 117 - Senator Wanzenried moved **SB 117** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 127 - Senator Gillan moved **SB 127** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 130 - Senator Hamlett moved **SB 130** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 156 - Senator Cooney moved **SB 156** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 160 - Senator Jent moved **SB 160** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 171 - Senator Barkus moved **SB 171** do pass.

SB 171 - Senator Perry moved **SB 171**, second reading copy, be amended as follows:

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

1. Title, line 4.

Following: "CREATING"

Strike: "A CRIMINAL PENALTY FOR"

Insert: "THE OFFENSE OF"

2. Title, line 5.

Following: "PROPERTY;"

Insert: "PROVIDING A PENALTY;"

3. Page 1, line 9.

Strike: "Criminal penalty for damage"

Insert: "Damage"

Following: "(1)"

Strike: "If"

Insert: "A tenant commits the offense of damage to rental property if"

4. Page 1, line 11 through line 13.

Following: "70-33-321(3)" on line 11

Strike: remainder of line 11 through "\$500" on line 13

Insert: ".
(2) A person convicted of the offense of damage to rental property that caused pecuniary loss not exceeding \$1,000 in value shall be fined an amount not to exceed \$1,000"

5. Page 1, line 13.

Following: "for"

Strike: "not more than"

Insert: "a term not to exceed"

Following: "both."

Insert: "A person convicted of the offense of damage to rental property that caused pecuniary loss exceeding \$1,000 in value shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both."

6. Page 1, line 15.

Following: line 14

Insert: "(3) A person convicted of damage to rental property must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted."

Renumber: subsequent subsection

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 171 - Senator Barkus moved **SB 171**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke.

Total 33

Nays: Barrett, Branae, R. Brown, Cooney, Erickson, Gallus, Juneau, Kaufmann, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 2 - Senator Lewis moved **SJR 2** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 6 - Senator Hansen moved **SJR 6** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila,

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Wanzenried, Williams, Windy Boy.
Total 38

Nays: Barkus, Black, Brenden, Esp, Essmann, Gebhardt, Lewis, Perry, Ripley, Tutvedt, Zinke, Mr. President.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Perry moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 41 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 126 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 140 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Hinkle, McGee, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 182 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Bales moved SB 22 be referred to Finance and Claims. Motion carried.

SENATE JOURNAL
FIFTEENTH LEGISLATIVE DAY - JANUARY 22, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, January 23, 2009. Motion carried.

Senate adjourned at 2:54 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTEENTH LEGISLATIVE DAY**

Helena, Montana
January 23, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Senator Roy Brown. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Hamlett, excused. Quorum present.

BILLS AND JOURNAL (Senator Curtiss, Chairman): 1/23/2009
Correctly printed: **SB 22, SB 77, SB 89, SB 111, SB 117, SB 127, SB 130, SB 156, SB 160, SB 215, SB 263, SB 264, SB 265, SB 266, SB 267, SJR 2, SJR 6, SJR 13, SJR 14.**
Correctly engrossed: **SB 21, SB 131, SB 171, SJR 4, SJR 8.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman): 1/23/2009
SB 65, do pass. Report adopted.

JUDICIARY (Perry, Chairman): 1/23/2009
SB 121, introduced bill, be amended as follows:
1. Page 2, line 1.
Following: "to"
Strike: "any"
Insert: "the"
Following: "in the"
Strike: "state"
Insert: "county in which the respondent resides"

And, as amended, do pass. Report adopted.

SB 158, introduced bill, be amended as follows:

1. Title, line 6 through line 8.
Following: "DISTRICTS" on line 6
Strike: remainder of line 6 through "JUDGES" on line 8
Insert: "TO BE ELECTED"
2. Title, line 9.
Strike: "AN IMMEDIATE"
Insert: "A DELAYED"
3. Page 1, line 22.
Strike: "Provisional appointment -- election."
Insert: "Election of judges."
4. Page 1, line 22 through line 26.
Following: "election." on line 22
Strike: remainder of line 22 through "(2)" on line 26

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

5. Page 1, line 26.

Following: "for the"

Insert: "1st,"

Following: "8th,"

Insert: "11th,"

6. Page 1, line 28.

Following: line 27

Insert: "NEW SECTION. **Section 3. Contingent voidness.** If House Bill No. 2 is passed and approved and if it does not provide funding for personal services and operating expenses to support the additional judges provided for in [this act], then [this act] is void."

Renumber: subsequent section

7. Page 1, line 29.

Strike: "on passage and approval"

Insert: "January 1, 2010"

And, as amended, do pass. Report adopted.

SB 191, introduced bill, be amended as follows:

1. Title, line 7.

Following: "NEEDS;"

Insert: "AMENDING SECTIONS 61-8-460, 61-8-725, AND 61-13-104, MCA;"

2. Page 3, line 6.

Following: line 5

Insert: "**Section 3.** Section 61-8-460, MCA, is amended to read:

"61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on highway. (1)

Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

(2) This section does not apply to an open alcoholic beverage container:

(a) in a locked glove compartment or storage compartment;

(b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;

(c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;

(d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or

(e) in the immediate possession of a passenger:

(i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or

(ii) in the living quarters of a camper, travel trailer, or motor home.

(3) (a) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100.

(b) A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, [section 1], 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, [section 1], and 46-18-236 may not be imposed for a violation of this section."

Insert: "**Section 4.** Section 61-8-725, MCA, is amended to read:

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

"61-8-725. Penalty for violation of speed limits -- no record for certain violations. (1) A person violating the speed limit imposed pursuant to 61-8-303 shall be fined in accordance with the following schedule:

Amount of Fine MPH in Excess of Speed Limit

\$ 20	1 - 10 (daytime)
20	1 - 10 (nighttime)
40	11 - 20
70	21 - 30
100	31+

(2) A violation of a speed limit imposed pursuant to 61-8-303 is not a criminal offense within the meaning of 3-1-317, [section 1], 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and, except as provided in subsection (4), may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than:

- (a) 10 miles an hour during the daytime; or
- (b) 5 miles an hour during the nighttime.

(3) The surcharge provided for in 3-1-317 or [section 1] may not be imposed for a violation of 61-8-303.

(4) The recordkeeping restrictions provided in subsection (2) with respect to a person's driving record do not apply to a speed limit violation or conviction that was committed by:

(a) a Montana resident in another state whose violation or conviction was reported to the department by a court or the licensing authority in the state in which the violation occurred; or

(b) a person who holds a commercial driver's license regardless of whether or not the violation occurred while the person was operating a commercial motor vehicle."

Insert: "Section 5. Section 61-13-104, MCA, is amended to read:

"61-13-104. Penalty -- no record permitted. (1) A driver who violates 61-13-103 shall be fined \$20, but the violation is not a misdemeanor pursuant to [section 1], 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203(2)(m). Bond for this offense is \$20, and a jail sentence may not be imposed.

(2) A violation of 61-13-103 may not be recorded or charged against the driver's record of a person violating 61-13-103.

(3) An insurance company may not hold a violation of 61-13-103 against the insured or increase the insured's premiums due to a violation of 61-13-103."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 209, introduced bill, be amended as follows:

1. Page 4, line 30.

Strike: "15"

Insert: "10"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/22/2009

HB 38, introduced by Campbell

HB 39, introduced by Cohenour

HB 46, introduced by Fleming

HB 70, introduced by Sands

HB 72, introduced by Sands

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

HB 78, introduced by Hendrick
HB 97, introduced by Boland
HB 102, introduced by Smith
HB 106, introduced by French

MOTIONS

Senator Zinke moved to add Senator Laslovich as a sponsor to SB 192. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 268, introduced by R. Brown, referred to Highways and Transportation.
SB 269, introduced by R. Brown, referred to Business, Labor, and Economic Affairs.
SB 270, introduced by Keane, referred to Business, Labor, and Economic Affairs.
SB 271, introduced by Squires, Arntzen, Gillan, Perry, Stahl, Villa, Wilson, referred to Public Health, Welfare and Safety.
SB 272, introduced by McGee, Nooney, referred to Local Government.
SB 273, introduced by Laslovich, referred to Education and Cultural Resources.
SB 274, introduced by Curtiss, Barkus, Hinkle, Jackson, referred to Taxation.
SB 275, introduced by Squires, referred to Public Health, Welfare and Safety.
SB 276, introduced by Squires, referred to State Administration.
SB 277, introduced by Kaufmann, referred to Taxation.
SB 278, introduced by Kaufmann, referred to Highways and Transportation.
SB 279, introduced by R. Brown, Bales, Barkus, Debby Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Gebhardt, Gillan, Hamlett, Keane, Lewis, McGee, J. Peterson, Ripley, Steinbeisser, Windy Boy, Zinke, Taylor, referred to Education and Cultural Resources.
SB 280, introduced by Gebhardt, referred to Taxation.
SB 281, introduced by Shockley, J. Peterson, referred to Judiciary.
SJR 16, introduced by R. Brown, Gebhardt, Jackson, Murphy, Tutvedt, referred to Business, Labor, and Economic Affairs.

Senator Hamlett present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hawks in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 34 - Senator Lewis moved **SB 34** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

Total 41

Nays: Balyeat, Curtiss, Erickson, Gallus, Hinkle, Jent, Kaufmann, Moss, Zinke.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator McGee assumed the chair.

SB 67 - Senator Laible moved **SB 67** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Hawks reassumed the chair.

SB 68 - Senator Wanzenried moved **SB 68** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

SB 78 - Senator Brenden moved **SB 78** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Zinke, Mr. President.
Total 42

Nays: Lewis, McGee, Squires, J. Tropila, M. Tropila, Wanzenried, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: R. Brown.
Total 1

SB 155 - Senator Cooney moved **SB 155** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: R. Brown.
Total 1

SB 161 - Senator Debby Barrett moved **SB 161** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 43

Nays: Black, Esp, Gallus, McGee, M. Tropila, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: R. Brown.
Total 1

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

SB 168 - Senator Zinke moved **SB 168** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Cooney, Gallus, McGee, Murphy.
Total 4

Absent or not voting: Barkus.
Total 1

Excused: R. Brown.
Total 1

Senator Esp moved that **SB 181** be passed for the day. Motion carried.

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Hawks moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 77 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: R. Brown.
Total 1

SB 89 passed as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

Total 34

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Essmann, Gebhardt, Hinkle, McGee, Perry, Shockley, Tutvedt, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: R. Brown.

Total 1

SB 117 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: R. Brown.

Total 1

SB 127 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Esp, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: R. Brown.

Total 1

SB 130 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane,

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: R. Brown.

Total 1

SB 156 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Hinkle.

Total 1

Absent or not voting: None.

Total 0

Excused: R. Brown.

Total 1

SB 160 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: R. Brown.

Total 1

SJR 2 passed as follows:

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Esp, Essmann, Gebhardt, Gillan, McGee, Schmidt.

Total 6

Absent or not voting: None.

Total 0

Excused: R. Brown.

Total 1

SJR 6 passed as follows:

Yeas: Bales, Balyeat, Barrett, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 40

Nays: Barkus, Black, Brenden, Esp, Gebhardt, Lewis, Perry, Tutvedt, Mr. President.

Total 9

Absent or not voting: None.

Total 0

Excused: R. Brown.

Total 1

UNFINISHED BUSINESS

Sen. Shockley moved to add Senator Jent as a sponsor to SB 281. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Barkus thanked Karin Thompson, Helena, a Senate Page for the week of January 19-24, 2009, for her work.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

President Story requested that if bills have multiple signatures, that a form indicating that Legislators have signed be completed, so individual signatures do not have to be deciphered. President Story requested Senators to check with the Secretary of Senate's Office if they have questions.

SENATE JOURNAL
SIXTEENTH LEGISLATIVE DAY - JANUARY 23, 2009

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Saturday, January 24, 2009. Motion carried.

Senate adjourned at 2:51 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTEENTH LEGISLATIVE DAY**

Helena, Montana
January 24, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Gallus, excused. Quorum present.

BILLS AND JOURNAL (Senator Curtiss, Chairman): 1/24/2009
Correctly printed: **SB 34, SB 65, SB 67, SB 68, SB 78, SB 155, SB 161, SB 168, SB 268, SB 269, SB 270, SB 271, SB 272, SB 273, SB 274, SB 275, SB 276, SB 277, SB 278, SB 279, SB 280, SB 281, SJR 16.**
Correctly engrossed: **SB 121, SB 158, SB 191, SB 209.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 1/23/2009
SB 135, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "REGISTERING AND"

2. Title, page 1, line 13.

Strike: the first "AND"

Following: "33-22-2008,"

Insert: "AND 53-4-1004,"

3. Page 2, line 7.

Following: "from the"

Insert: "reporting"

Strike: "of this section"

Insert: "under subsection (3)"

4. Page 5, line 13.

Strike: "gross" through "commissions"

Insert: "wages, as defined in 39-71-123"

5. Page 5, line 15 through line 16.

Strike: "gross" on line 15 through "business" on line 16

Insert: "wages, as defined in 39-71-123"

6. Page 5, line 27.

Strike: "medicare or"

Strike: "Titles XVIII and"

Insert: "Title"

Following: "Act"

Strike: ", respectively" through "eligible"

Insert: "may become ineligible"

7. Page 10.

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

Following: line 18

Insert: "Section 6. Section 53-4-1004, MCA, is amended to read:

"53-4-1004. (Temporary) Eligibility for program -- rulemaking. (1) To be considered eligible for the program, a child:

(a) must be 18 years of age or younger;

(b) must have a combined family income at or below 250% of the federal poverty level or at a lower level determined by the department of public health and human services as provided in subsection (4);

(c) may not already be covered by private insurance that offers creditable coverage, as defined in 42 U.S.C. 300gg(c), for 3 months prior to enrollment in the program or since birth, whichever period is less, except that the break in coverage is waived for a covered dependent whose coverage moves from the purchasing pool provided under Title 33, chapter 22, part 20, to coverage under this part;

(d) may not be eligible for medicaid benefits; and

(e) must be a United States citizen or qualified alien and a Montana resident.

(2) The department of public health and human services shall adopt rules that establish the program's criteria for residency. The criteria must conform as nearly as practicable with the residency requirements for medicaid eligibility.

(3) Subject to 53-4-1009(3), rules governing eligibility may also include financial standards and criteria for income and resources, treatment of resources, and nonfinancial criteria.

(4) If the department determines that there is insufficient funding for the program, it may lower the percentage of the federal poverty level established in subsection (1)(b) in order to reduce the number of persons who may be eligible to participate or may limit the amount, scope, or duration of specific services provided. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999; sec. 14, I.M. No. 155, approved November 4, 2008.)"

Renumber: subsequent sections

8. Page 10.

Following: line 18

Insert: "NEW SECTION. **Section 7. Contingent voidness.** [Section 6] is void on the date that the centers for medicare and medicaid services notifies the department of public health and human services of disapproval of the state plan amendment. The department of public health and human services shall notify the code commissioner of the date of the notification if the state plan amendment is disapproved."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 176, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "PROVIDING"

Strike: "AN"

Insert: "A LIMITED"

2. Page 1, line 14.

Following: "licensed"

Insert: "only for surety bail bonds or"

3. Page 1, line 16.

Following: "only for"

Insert: "surety bail bonds or for"

4. Page 1, line 18.

Following: "or"

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

Insert: "topics specific to surety bail bonds or"

5. Page 1, line 25.

Following: "or"

Insert: "or"

6. Page 1, line 26 through line 27.

Following: "commissioner" on line 26

Strike: "; or" on line 26 through "bonds" on line 27

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

1/24/2009

SB 9, introduced bill, be amended as follows:

1. Title, line 4.

Following: "FOR"

Insert: "CERTAIN"

2. Title, line 5 through line 7.

Strike: "PROVIDING" on line 5 through "BONDS;" on line 7

Strike: "SECTIONS" on line 7

Insert: "SECTION"

Strike: "7-7-4424, AND 7-14-302" on line 7

3. Page 1, line 26.

Following: ";

Insert: "and"

4. Page 1, line 27.

Strike: "but not limited to"

Strike: "and facilities"

5. Page 1, line 28.

Following: "passenger trains and lines,"

Strike: "and"

Following: "light rail trains and lines"

Insert: ", and the facilities associated with those systems"

6. Page 1, lines 28 through 30.

Strike: "; and" on line 28 through "paths" on line 30

7. Page 2, lines 2 through 26.

Strike: sections 2 and 3 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

1/24/2009

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

SB 79, introduced bill, be amended as follows:

1. Page 1, line 30.

Following: "50-5-101,"

Insert: "including federal facilities,"

2. Page 2, line 24.

Strike: "and"

3. Page 2, line 26.

Following: "residents"

Strike: "."

Insert: "; and"

Following: line 26

Insert: "(3) emergency medical service provided by an ambulance company located in a county with a population of 20,000 residents or more, from a community within that county with a population of 1,500 residents or less to a health care facility in that county."

And, as amended, do pass. Report adopted.

SB 82, do pass. Report adopted.

SB 119, do pass. Report adopted.

SB 226, do pass. Report adopted.

COMMUNICATIONS AND PETITIONS

Secretary Miller read a letter from U.S. Congressman Denny Rehberg confirming that he will address a Joint Session of the Montana Legislature on March 13, 2009, at 2:00 p.m.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/23/2009

HB 119, introduced by Hunter

HB 125, introduced by Mehlhoff

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 282, introduced by Laslovich, referred to Taxation.

SB 283, introduced by Erickson, Debby Barrett, Lewis, referred to Highways and Transportation.

SB 284, introduced by Brueggeman, Blewett, Laslovich, Taylor, referred to Taxation.

SB 285, introduced by Jent, referred to Judiciary.

SB 286, introduced by T. Brown, Bales, Debby Barrett, Black, Gebhardt, Hinkle, Hoven, J. Peterson, Ripley, Sales, Steinbeisser, Zinke, referred to Agriculture, Livestock and Irrigation.

SB 287, introduced by Balyeat, R. Brown, Erickson, Gebhardt, Hinkle, Jackson, Jopek, Kaufmann, McGee, Mendenhall, More, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Williams, Wilmer, referred to Business, Labor, and Economic Affairs.

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

SB 288, introduced by Hinkle, Bales, Debby Barrett, Black, T. Brown, Curtiss, Gebhardt, Ingraham, J. Peterson, Ripley, Steinbeisser, referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Essmann in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 181 - Senator Esp moved **SB 181** do pass.

SB 181 - Senator Esp moved **SB 181**, second reading copy, be amended as follows:

1. Title, line 6.

Strike: "APPLICABILITY"

Insert: "IMMEDIATE EFFECTIVE"

2. Page 1, line 28 through line 29.

Strike: section 2 in its entirety

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 181 - Senator Esp moved **SB 181**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

SB 111 - Senator Ripley moved **SB 111** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

SB 131 - Senator Williams moved **SB 131** do pass. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, McGee, Perry, Peterson, Ripley, Shockley, Tutvedt, Mr. President.
Total 20

Absent or not voting: Windy Boy.
Total 1

Excused: Gallus.
Total 1

SB 152 - Senator Brueggeman moved **SB 152** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 196 - Senator Windy Boy moved **SB 196** do pass. Motion carried as follows:

Yeas: Balyeat, Branae, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 32

Nays: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Gebhardt, Hinkle, Jackson, Lewis, McGee, Peterson, Ripley, Tutvedt, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

Senator Peterson moved SB 197 be passed for the day. Motion carried.

SB 215 - Senator Steinbeisser moved **SB 215** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SJR 4 - Senator Laible moved **SJR 4** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson,

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

Essmann, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Branae, Cooney, Esp, Gebhardt, Juneau, Kaufmann, McGee, Murphy.

Total 8

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SJR 8 - Senator Hawks moved **SJR 8** do pass. Motion carried as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Curtiss, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 32

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, Cooney, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Murphy, Ripley, Shockley, Steinbeisser, Tutvedt.

Total 17

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SJR 13 - Senator Zinke moved **SJR 13** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Esp, Juneau, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Essmann moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 34 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Curtiss, Erickson, Hinkle, Jent, Kaufmann, Moss.

Total 7

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 67 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

Paired: Barkus, Aye; Gallus, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 68 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 78 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Hinkle, McGee, M. Tropila.

Total 3

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 155 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 161 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 47

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

Nays: Esp, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

SB 168 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Murphy, Tutvedt.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

SB 171 passed as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 36

Nays: Balyeat, Barrett, R. Brown, Cooney, Erickson, Juneau, Kaufmann, Moss, Shockley, Squires, Stewart-Peregoy, Williams, Windy Boy.
Total 13

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

MOTIONS

Senator Jent moved that his vote on SB 34 be changed to no. Without objection, President Story so ordered.

UNFINISHED BUSINESS

Senator Peterson clarified the process for floor amendments.

SENATE JOURNAL
SEVENTEENTH LEGISLATIVE DAY - JANUARY 24, 2009

SPECIAL ORDERS OF THE DAY

Senator Brown thanked the Pages for their work during the week of January 19-24, 2009.

President Story requested Committee Chairman to obtain revised fiscal notes prior to a bill being heard on the Senate floor.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, January 26, 2009. Motion carried.

Senate adjourned at 9:42 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTEENTH LEGISLATIVE DAY**

Helena, Montana
January 26, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Kaufmann, excused. Quorum present.

BILLS AND JOURNALS:

1/26/2009

Correctly printed: **SB 82, SB 111, SB 119, SB 131, SB 152, SB 196, SB 215, SB 226, SB 282, SB 283, SB 284, SB 285, SB 286, SB 287, SB 288, SJR 4, SJR 8, SJR 13.**

Correctly engrossed: **SB 9, SB 79, SB 135, SB 176, SB 181.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

1/26/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, January 24, 2009:

TITLE

NAME

Pages:

Corey Weber, Helena
Karin Thompson, Helena
Erik Andersen, Clancy
Ericka Metroka, Helena
Katherine Baum, Billings

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, January 26, 2009:

TITLE

NAME

Pages:

Michelle Carey, Missoula
Stephanie Courville, Ronan
Adam Cook, Missoula
Harlan Reidmohr, Helena
Konnor Scally, Martinsdale
Bridger Mahlum, Big Fork

Report Adopted.

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Gebhardt, Chairman):

1/26/2009

SB 76, do pass. Report adopted.

SB 113, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "AUTHORITY;"

Insert: "CREATING A MECHANIZED EQUIPMENT FUELS REDUCTION PILOT PROGRAM ACCOUNT;"

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

2. Page 1, line 15.

Strike: ":"

3. Page 1, line 16.

Strike: "(a)"

4. Page 1, line 17 through line 19.

Strike: "; and" on line 17 through "purposes" on line 19

5. Page 1.

Following: line 25

Insert: "(iii) limit visual impacts, minimize soil disturbance, and promote habitat improvement in a manner that conforms with best forestry practices;"

6. Page 1, line 26.

Strike: "(iii)"

Insert: "(iv)"

7. Page 1, line 27.

Strike: "(iv)"

Insert: "(v)"

8. Page 1.

Following: line 30

Insert: "(5) (a) Unless included in a specific general fund appropriation from the legislature, general fund money may not be used for the pilot program for mechanized equipment fuels reduction and fire suppression provided for in this section. This restriction does not preclude the use of a specific federal appropriation, transfer, gift, donation, grant, legacy, bequest, or devise made for the purposes of this section.

(b) Money provided pursuant to subsection (5)(a) must be deposited in the mechanized equipment fuels reduction pilot program account established in [section 2]."

Insert: "NEW SECTION. Section 2. Mechanized equipment fuels reduction pilot program account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the mechanized equipment fuels reduction pilot program account.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money from a state or local agency for the purposes of [section 1];

(c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [section 1]; and

(d) money received by the federal government for the purpose of administering [section 1].

(3) The fund may be used by the department of natural resources and conservation only to establish, administer, and implement the mechanized equipment fuels reduction pilot program provided for in [section 1]."

Renumber: subsequent sections

9. Page 2, line 2.

Strike: "[Section 1] is"

Insert: "[Sections 1 and 2] are"

10. Page 2, line 3.

Strike: "[section 1]"

Insert: "[sections 1 and 2]"

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

And, as amended, do pass. Report adopted.

SB 136, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/24/2009

HB 61, introduced by Sesso

HB 158, introduced by Augare

Sen. Kaufmann present.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 289, introduced by Jackson, Bennett, Black, Boniek, Branae, D. Brown, Driscoll, Fleming, Gillan, Hinkle, Ripley, Stahl, Steenson, Steinbeisser, J. Tropila, Vincent, Wanzenried, Zinke, referred to Agriculture, Livestock and Irrigation.

SB 290, introduced by Jackson, Berry, Boniek, Branae, D. Brown, Cohenour, Erickson, Fleming, Gillan, Hinkle, Keane, Lewis, Murphy, Regier, Ripley, Roberts, Steenson, Steinbeisser, J. Tropila, Vincent, Zinke, referred to Energy and Telecommunications.

SB 291, introduced by Black, referred to Business, Labor, and Economic Affairs.

SB 292, introduced by Gebhardt, referred to Taxation.

SB 293, introduced by Story, referred to State Administration.

SJR 17, introduced by Perry, Zinke, referred to Agriculture, Livestock and Irrigation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Sen. Peterson moved SB 20 be passed for the day. Motion carried.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 21 - Senator Story moved **SB 21** do pass.

SB 21 - Senator Kaufmann moved **SB 21**, second reading copy, be amended as follows:

1. Title, line 12.

Following: "~~DISTRIBUTIONS,~~"

Insert: "PROVIDING FOR A DISTRIBUTION TO THE ADOPTION SERVICES ACCOUNT FOR AN AMOUNT EQUAL TO THAT NOT PAID DUE TO THE USE OF THE ERRONEOUS BASE AMOUNT FOR COMPUTING THE DISTRIBUTION;"

2. Title, page 1, line 12.

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

Strike: "AN"

3. Title, line 13.

Strike: "DATE"

Insert: "DATES"

4. Page 3, line 16.

Insert: "NEW SECTION. Section 2. Transfer to adoption services account. There is transferred \$11,223 from the state general fund to the adoption services account provided in 42-2-105."

Renumber: subsequent sections

5. Page 3, line 17.

Strike: "DATE"

Insert: "dates"

6. Page 3, line 18.

Following: "approval."

Insert: "(1) Except as provided in subsection (2), [this act] is effective on passage and approval."

7. Page 3, line 19.

Strike: "[THIS ACT]"

Insert: "(2) [Section 1]"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 21 - Senator Story moved **SB 21**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 26 - Senator Murphy moved **SB 26** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 53 - Senator Lewis moved **SB 53** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 115 - Senator Kaufmann moved **SB 115** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 14 - Senator Larsen moved **SJR 14** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 46

Nays: Curtiss, Esp, McGee, Mr. President.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Sen. Bales moved to re-refer SB 21 to Finance and Claims. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

MOTIONS

Sen. Shockley moved that SB 20 be re-referred to State Administration. Motion carried.

Sen. Lewis moved to have his vote on SJ 14 recorded as yes. Without objection, so ordered.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 111 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 131 passed as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, McGee, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 152 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires,

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Gebhardt.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 196 passed as follows:

Yeas: Balyeat, Branae, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 34

Nays: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Gebhardt, Hinkle, Jackson, Lewis, Peterson, Ripley, Steinbeisser, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 215 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

SJR 4 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Branae, Cooney, Esp, Gallus, Gebhardt, Hinkle, Juneau, Kaufmann, McGee, Moss, Murphy, Williams.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 8 passed as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, Cooney, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Murphy, Ripley, Shockley, Steinbeisser, Tutvedt.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 13 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Esp, Juneau, Kaufmann, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
EIGHTEENTH LEGISLATIVE DAY - JANUARY 26, 2009

SPECIAL ORDERS OF THE DAY

Senator Barkus introduced the Senate Pages for the week of January 26-31, 2009.

Sen. Peterson announced that the Senate Republicans would caucus upon adjournment.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, January 27, 2009. Motion carried.

Senate adjourned at 1:56 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
NINETEENTH LEGISLATIVE DAY**

Helena, Montana
January 27, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

1/27/2009

Correctly printed: **SB 26, SB 53, SB 76, SB 115, SB 136, SB 289, SB 290, SB 291, SB 292, SB 293, SJR 14, SJR 17.**

Correctly engrossed: **SB 21, SB 113.**

Correctly enrolled: **SJR 1.**

Mr. President: We, your committee on Bills and Journals, having examined the daily journals for the twelfth, thirteenth, fourteenth, and fifteenth legislative days, find the same to be correct.

Senator Curtiss, Chair

UNFINISHED BUSINESS

Senator Brenden moved that the following sponsors be added to SJR 7: Bales, Balyeat, Barkus, Debby Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Gebhardt, Hinkle, Lewis, Murphy, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Ankney, Bean, D. Brown, Glaser, Hollandsworth, Kasten, Klock, McNutt, Mendenhall, Sales, Smith, Stahl, Taylor, Vincent, Washburn, Welborn.

Senator M. Tropila moved that the following sponsors be added to SB 221: McGee.

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

1/27/2009

SB 80, do pass. Report adopted.

SB 81, do pass. Report adopted.

SB 173, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

1/27/2009

SB 57, introduced bill, be amended as follows:

1. Title, page 1, line 11 through line 12.

Strike: "HOSPITAL" on line 11 through the first "DISTRICTS," on line 12

2. Title, page 1, line 14.

Strike: "RURAL FIRE DISTRICTS,"

3. Title, page 1, line 15.

Following: "TELEVISION DISTRICTS;"

Insert: "GRANTING RULEMAKING AUTHORITY;"

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

4. Title, page 1, line 16.

Strike: "7-2-4734," through "7-6-2512,"

5. Title, page 1, line 17 through line 18.

Strike: "7-33-2403," on line 17 through "10-3-1103," on line 18

6. Title, page 1, line 18 through line 19.

Strike: "40-6-402," on line 18 through "53-6-106, on line 19

7. Title, page 1, line 19.

Strike: "61-8-102,"

Insert: "AND"

8. Title, page 1, line 20.

Strike: "76-13-104, AND 90-7-104,"

9. Title, page 2, line 13 through line 20.

Strike: "7-33-2101," on line 13 through "7-34-2164," on line 20

10. Page 3, line 9.

Strike: "hospital districts,"

11. Page 3, line 10.

Strike: "rural fire districts," on line 10

12. Page 3, line 15.

Following: the first "districts,"

Insert: "hospital districts,"

13. Page 3, line 16.

Following: "lighting districts,"

Insert: "rural fire districts,"

14. Page 6, line 1.

Following: "property"

Insert: "or the contract buyer on file with the county clerk and recorder"

15. Page 8, line 10 through line 26.

Following: "accessibility." on line 10

Strike: "(1)" on line 10 through "library." on line 26

Insert: " (1) Within 60 days after the creation of a special district or by January 1 of the effective tax year, whichever occurs first, the governing body shall provide to the department of revenue a:

(a) legal description of the special district;

(b) map of its boundaries;

(c) list of the property taxpayers or owners of real property within the special district's boundaries; and

(d) copy of the resolution establishing the special district, including any adopted method of assessment.

(2) The department of revenue shall review the information provided in accordance with subsection (1) and work with the governing body to identify and correct any discrepancies before the information is recorded by the department.

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

(3) If the governing body intends to submit any digital information to the department of revenue for the purposes of subsection (4)(b), the governing body shall notify the department of revenue as to the expected date of submission and submit the digital information in a manner prescribed by the department of revenue in consultation with the department of administration.

(4) The department of administration, in coordination with the department of revenue, governing bodies, and other appropriate entities, may develop standards, best practices, and procedures for:

(a) collecting and transferring between agencies any digital information submitted by a governing body for purposes of subsection (4)(b); and

(b) creating digital information to map special districts for land information purposes authorized in Title 90, chapter 1, part 4, that can be accessed through the department's base map service center's website and discovered through the Montana geographical information system portal at the Montana state library."

16. Page 12, line 5.

Strike: "or" through "district"

17. Page 13, line 6 through line 7.

Following: "revenue" on line 6

Strike: "at" on line 6 through "government" on line 7

Insert: "by the third Monday in August or within 45 calendar days after receiving certified taxable values from the department of revenue"

18. Page 18, line 16.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

19. Page 18, line 22.

Strike: subsection (10) in its entirety

Renumber: subsequent subsections

20. Page 18, line 27 through page 22, line 28.

Strike: section 24 through section 30 in their entirety

Renumber: subsequent sections

21. Page 23, line 19.

Strike: "special districts"

Insert: "a museum, facility for the arts and the humanities, collection of exhibits, or a museum district created under provisions of former Title 7, chapter 16, part 22, or [sections 1 through 20]"

22. Page 27, line 23 through page 33, line 20.

Strike: section 42 through section 49 in their entirety

Renumber: subsequent sections

23. Page 34, line 4 through line 5.

Strike: ", or [sections 1 through 20]"

24. Page 37, line 28 through page 45, line 25.

Strike: section 52 through section 60 in their entirety

Renumber: subsequent sections

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

25. Page 46, line 15 through page 49, line 1.

Strike: section 62 in its entirety

Renumber: subsequent sections

26. Page 51, line 28 through page 53, line 17.

Strike: section 64 and section 65 in their entirety

Renumber: subsequent sections

27. Page 54, line 12 through line 19.

Strike: "7-33-2101" through "7-34-2164,"

And, as amended, do pass. Report adopted.

SB 58, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Following: "MAPPING;"

Insert: "GRANTING RULEMAKING AUTHORITY;"

2. Page 3.

Following: "accessibility." on line 4

Strike: "(1)" on line 4 through "library." on line 19

Insert: " (1) Within 60 days after the creation of a special district or by January 1 of the effective tax year, whichever occurs first, the governing body shall provide to the department of revenue a:

(a) legal description of the special district;

(b) map of its boundaries;

(c) list of the property taxpayers or owners of real property within the special district's boundaries; and

(d) copy of the resolution establishing the special district, including any adopted method of assessment.

(2) The department of revenue shall review the information provided in accordance with subsection (1) and work with the governing body to identify and correct any discrepancies before the information is recorded by the department.

(3) If the governing body intends to submit any digital information to the department of revenue for the purposes of subsection (4)(b), the governing body shall notify the department of revenue as to the expected date of submission and submit the digital information in a manner prescribed by the department of revenue in consultation with the department of administration.

(4) The department of administration, in coordination with the department of revenue, governing bodies, and other appropriate entities, may develop standards, best practices, and procedures for:

(a) collecting and transferring between agencies any digital information submitted by a governing body for purposes of subsection (4)(b); and

(b) creating digital information to map special districts for land information purposes authorized in Title 90, chapter 1, part 4, that can be accessed through the department's base map service center's website and discovered through the Montana geographical information system portal at the Montana state library."

And, as amended, do pass. Report adopted.

SB 148, introduced bill, be amended as follows:

1. Title, line 11.

Following: "7-21-3107,"

Strike: "AND"

Following: "7-21-3212,"

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

Insert: "81-4-505, AND 81-4-509,"

2. Page 11, line 3.

Following: "bond₂"

Insert: "irrevocable"

3. Page 12, line 11.

Following: "bond₂"

Insert: "irrevocable"

4. Page 14.

Following: line 25

Insert: "Section 33. Section 81-4-505, MCA, is amended to read:

"81-4-505. Roundup foreman supervisor -- duties -- bond. (1) All roundups ~~shall~~ must be under the control and supervision of the board of county commissioners of the county in which the ~~same shall be~~ roundup is held. Roundup districts ~~shall~~ must be numbered in the order of their creation. Each roundup ~~shall~~ must be conducted by ~~some~~ a person designated or employed by the board of county commissioners, whose official designation ~~shall~~ must be "roundup ~~foreman~~ supervisor, roundup district, County, state of Montana".

(2) ~~Such person~~ The roundup supervisor shall maintain ~~his~~ headquarters at the place designated by the board of county commissioners in its order as the headquarters of ~~such the~~ roundup. ~~Such The roundup foreman shall have~~ supervisor has the power to administer oaths and affirmations in all matters coming within the scope of ~~his~~ official duties.

(3) ~~The~~ If the roundup supervisor is not employed by the board of county commissioners, the board of county commissioners shall require from ~~such the~~ roundup ~~foreman~~ supervisor an official bond, in an amount not less than \$2,500 and not to exceed \$5,000, ~~which bond shall that must~~ be conditioned as official bonds of county officers and ~~shall be~~ is subject to all provisions of law applicable to ~~such county officer~~ county officer bonds.""

Insert: "Section 34. Section 81-4-509, MCA, is amended to read:

"81-4-509. Proof of ownership -- payment of taxes and penalties -- decision of commissioners on claim. ~~Any~~ A person claiming ~~any an~~ abandoned horse or horses as provided in 81-4-508 shall, within 5 days after serving the notice provided for in 81-4-508; or within ~~such a~~ further time ~~as that~~ the board of county commissioners ~~shall~~ allow ~~allows~~, upon good cause shown, submit to ~~such the~~ board proof of ~~his~~ ownership and shall deposit with ~~said~~ the board the amount of any unpaid taxes and penalties ~~which that~~ may be assessed against ~~such the~~ horse or horses, together with ~~the sum of \$5 a~~ \$100 roundup fee. The board shall decide all ~~such~~ cases in preference to all other matters coming before it and at the earliest possible moment. If the claim ~~shall be~~ is allowed, the roundup ~~foreman~~ supervisor in charge of ~~such the~~ roundup ~~shall~~ must immediately be notified of ~~such the~~ decision and ~~he~~ the supervisor shall ~~forthwith~~ deliver ~~such the~~ horse or horses ~~as to which ownership shall be so proved~~ to the owner upon payment of any amount due from ~~such the~~ owner for the estimated cost of keeping and feeding ~~such the~~ horse or horses ~~as aforesaid~~. The deposit made by ~~such the~~ owner of taxes, penalties, and ~~the~~ roundup fee ~~shall~~ must be delivered by the board to the county treasurer. If ~~such the~~ board ~~shall deny~~ denies the claim of ownership, it shall ~~forthwith~~ notify the person in charge of ~~such the~~ roundup of its decision and ~~such the~~ horse or horses as to which ~~such the~~ claim ~~shall be~~ is denied ~~shall~~ must be offered for sale at the earliest convenient session of the sales being held under ~~such the~~ roundup; ~~and if~~. If the horses are not sold, ~~the same shall~~ they must be destroyed or otherwise disposed of as though no claim had been presented.""

Renumber: subsequent section

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

1/27/2009

SJR 7, do pass. Report adopted.

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman): 1/27/2009
SJR 5, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman): 1/27/2009
SB 123, introduced bill, be amended as follows:

1. Title, line 5.

Following: "PROHIBITING"

Strike: ", IN" through "CIRCUMSTANCES,"

2. Title, line 7.

Following: "NECESSITY"

Insert: "UNLESS CERTAIN CONDITIONS ARE MET"

3. Page 3, line 2 through line 5.

Following: "notice" on line 2

Strike: remainder of line 2 through "record" on line 5

Insert: "unless:

(i) the amended proposal notice is provided to the same interested persons who were notified by the original proposal notice;

(ii) the amended proposal notice is published at least 30 days in advance of the agency's proposed action and the agency posts the amended proposal notice on a state electronic access system or other electronic communications system available to the public;

(iii) the amended proposal notice is given the same or a greater number of days prior to a hearing on the proposed action as was given in the original proposal notice; and

(iv) the same or a greater number of days is afforded to interested persons to present their views on the proposed action as was afforded to interested persons in the original proposal notice"

And, as amended, do pass. Report adopted.

SB 170, introduced bill, be amended as follows:

1. Title, line 4.

Following: the second "AN ACT"

Insert: "CLARIFYING REIMBURSEMENT RATES FOR MEALS AND LODGING FOR FOREIGN TRAVEL;"

2. Page 2, line 2 through line 3.

Following: "reimbursed" on line 2

Strike: "for" through "administration" on line 3

3. Page 2, line 4 through line 5.

Strike: "which" on line 4 through "state" on line 5

4. Page 2, line 5.

Strike: "for" through "areas"

5. Page 2, line 6.

Following: "rates"

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

Insert: "as follows:

- (i) \$7 for the morning meal, \$11 for the midday meal, and \$18 for the evening meal; and
- (ii) \$155 per night for lodging"

And, as amended, do pass. Report adopted.

SB 187, introduced bill, be amended as follows:

1. Page 1, line 18.

Following: "exceeded"

Insert: "for an individual district"

And, as amended, do pass. Report adopted.

SB 219, introduced bill, be amended as follows:

1. Page 2, line 10.

Strike: "2003"

Insert: "2002"

And, as amended, do pass. Report adopted.

SB 240, introduced bill, be amended as follows:

1. Title, line 4.

Following: "APPOINTED"

Insert: "BY THE GOVERNOR"

2. Page 1, line 27 through page 2, line 9.

Strike: section 2 in its entirety

Renumber: subsequent sections

3. Page 5, line 6.

Strike: "(1)"

4. Page 5, line 8 through line 9.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/26/2009

HB 93, introduced by Sands

HB 121, introduced by Cohenour

HB 188, introduced by Kottel

Senate joint resolution concurred in and returned to the Senate:

1/26/2009

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

SJR 1, introduced by J. Peterson

MOTIONS

Senator Black moved **SB 291** be moved from the Business, Labor, and Economic Affairs committee to the Highways and Transportation committee. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 294, introduced by Gillan, referred to Local Government.

SB 295, introduced by Keane, referred to Business, Labor, and Economic Affairs.

SB 296, introduced by Essmann, Wanzenried, referred to Local Government.

SB 297, introduced by Larsen, referred to Natural Resources.

SB 298, introduced by Laslovich, McNutt, referred to Judiciary.

SB 299, introduced by J. Tropila, Cooney, Gillan, Lewis, Stewart-Peregoy, referred to State Administration.

SB 300, introduced by Steinbeisser, referred to Agriculture, Livestock and Irrigation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gillan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 65 - Senator Hawks moved **SB 65** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 36

Nays: Barrett, Brenden, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Ripley, Steinbeisser, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 79 - Senator Juneau moved **SB 79** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 82 - Senator Steinbeisser moved **SB 82** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 119 - Senator Esp moved **SB 119** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 135 - Senator Larsen moved **SB 135** do pass. Motion carried as follows:

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Brenden, Curtiss, Hinkle, McGee, Perry, Ripley, Shockley.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 176 - Senator Perry moved **SB 176** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 191 - Senator Jent moved **SB 191** do pass.

SB 191 - Senator McGee moved **SB 191**, second reading copy, be amended as follows:

1. Page 1, line 18.

Following: "upon"

Strike: "appearance"

Insert: "entry of judgment against the defendant or respondent"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 191 - Senator Jent moved **SB 191**, as amended, do pass. Motion **failed** as follows:

Yeas: Barkus, Branae, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, McGee, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Nays: Bales, Balyeat, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 191 - Senator Gebhardt moved **SB 191** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Nays: Branae, Cooney, Erickson, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, McGee, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 226 - Senator Hawks moved **SB 226** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Gillan moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senator Bales moved to re-refer **SB 119** to Finance and Claims. Motion carried.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 26 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

Total 0

Excused: None.

Total 0

SB 53 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 115 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 181 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat, Curtiss.

SENATE JOURNAL
NINETEENTH LEGISLATIVE DAY - JANUARY 27, 2009

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 14 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Esp, Gebhardt, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Shockley stated that the State Administration Committee has a list of the Governor's appointees. Anyone wishing to segregate an appointee should submit the request, in writing, to Senator Shockley.

Senator Peterson stated there are three openings on the Memorial Committee. Interested Senators should contact Secretary Miller.

Senator Peterson reminded the Senate of the Joint Session on January 28, 2009, at 7:00 p.m. to hear the State of the State address. The Senate will reconvene at 6:30 p.m.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, January 28, 2009. Motion carried.

Senate adjourned at 2:47 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTIETH LEGISLATIVE DAY**

Helena, Montana
January 28, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Gillan and Senator Schmidt, excused. Quorum present.

Senators Gillan and Schmidt present.

BILLS AND JOURNALS:

1/28/2009

Correctly printed: **SB 65, SB 79, SB 80, SB 81, SB 82, SB 119, SB 135, SB 173, SB 176, SB 226, SB 294, SB 295, SB 296, SB 297, SB 298, SB 299, SB 300, SJR 5, SJR 7.**

Correctly engrossed: **SB 57, SB 58, SB 123, SB 148, SB 170, SB 187, SB 219, SB 240.**

Delivered to the Secretary of State at 10:41 a.m., January 28, 2009: **SJR 1.**

REPORTS OF STANDING COMMITTEES

FISH AND GAME (Barkus, Chairman):

1/28/2009

SB 164, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Following: "MAINTENANCE;"

Insert: "ESTABLISHING A MAINTENANCE ACCOUNT;"

2. Title, page 1.

Strike: "REQUIRING" on line 10 through "WATER;" on line 12

3. Page 2.

Following: line 21

Insert: "(b) fence installation and repair of existing fences;"

ReNUMBER: subsequent subsections

4. Page 2, line 24.

Strike: subsection (d) in its entirety

ReNUMBER: subsequent subsections

5. Page 4, line 4.

Following: "must" on line 4

Strike: ", for" through "budget,"

6. Page 4, line 5 through line 6.

Following: "maintenance of" on line 5

Strike: "the"

Following: "water" on line 5

Strike: "rights" on line 5 through "purchase." on line 6

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

Insert: "acquired by the department. The additional amount above the purchase price must be deposited in the account established in [section 4]."

7. Page 5, lines 14 through 16.

Strike: subsection (e) in its entirety

8. Page 6.

Following: line 4

Insert: "NEW SECTION. Section 94. Maintenance account. There is a maintenance account in the state special revenue fund. Pursuant to 87-1-209(1), the additional amount above the purchase price set aside for maintenance of land or water acquired by the department must be deposited in the account. Funds deposited in the account may be used only for maintenance of any land or water acquired by the department. Any interest earned must be retained in the account."

Insert: "NEW SECTION. Section 5. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 4]."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SJR 15, introduced joint resolution, be amended as follows:

1. Title, page 1, line 5.

Strike: "URGING"

Insert: "EXPRESSING SUPPORT FOR THE DECISION BY"

Following: "WOLF"

Insert: ", URGING PRESIDENT BARACK OBAMA AND HIS ADMINISTRATION TO SUPPORT THAT DECISION AND ALLOW IT TO TAKE EFFECT,"

2. Title, page 1, line 6 through 7.

Strike: "DELISTING" on line 6 through "PROPOSALS" on line 7

Insert: "THE DECISION TO DELIST THE GRAY WOLF"

Following: "AGAINST" on line 7

Insert: "ANY"

Strike: "CHALLENGES" on line 7

Insert: "CHALLENGE"

3. Page 1, line 17.

Strike: "is already"

Insert: "has been"

4. Page 2, line 1 through line 2.

Strike: "and appears" on line 1 through "poised" on line 2

Insert: "has determined that, although Wyoming's plan is not sufficient to conserve Wyoming's portion of the recovered Northern Rockies wolf population, the plans of Montana and Idaho are sufficient, and therefore had decided on January 14, 2009,"

Strike: "early 2009" on line 2

Insert: "Montana and Idaho, a decision that was to take effect in late February 2009"

Following: line 2

Insert: "WHEREAS, President Barack Obama has put a hold on certain policy decisions made by the administration of former President George W. Bush, including the decision to delist the gray wolf, so that they may be reviewed; and

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

WHEREAS, it's unclear whether President Barack Obama will allow the decision of the United States Fish and Wildlife Service to delist the gray wolf to take effect; and"

5. Page 2, line 3.

Strike: "any"

Insert: "even if the"

Following: "is"

Insert: "allowed to take effect by President Barack Obama, it is"

6. Page 2, line 12.

Following: "urges"

Insert: "President Barack Obama and his administration to fully implement the decision of"

7. Page 2, line 16.

Strike: "United States Fish and Wildlife Service does not"

Insert: "decision to"

Strike: "in early 2009 as expected"

Insert: "is prevented from taking effect"

8. Page 2, line 17.

Strike: "a"

Insert: "the"

9. Page 2, line 20.

Strike: "any future"

Insert: "the"

10. Page 2, line 22.

Following: "to the"

Insert: "President of the United States, the"

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

1/28/2009

SB 92, do pass. Report adopted.

SB 189, introduced bill, be amended as follows:

1. Page 1, line 18.

Following: "exceed"

Insert: "two times"

2. Page 1, line 19.

Following: "current biennium"

Strike: "and" through "biennium"

3. Page 1, line 22.

Strike: "on a pro rata basis"

4. Page 2, line 3.

Following: "exceed"

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

Insert: "two times"

5. Page 2, line 4.

Strike: "and the projected budget for the succeeding biennium"

6. Page 2, line 7.

Strike: "on a pro rata basis"

And, as amended, do pass. Report adopted.

SB 256, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 1/28/2009

HB 90, introduced by Hawk

HB 137, introduced by McNutt

HB 222, introduced by Cohenour

HB 231, introduced by Glaser

House joint resolution passed and transmitted to the Senate for concurrence: 1/28/2009

HJR 9, introduced by Furey

MOTIONS

Senator Gebhardt moved **SB 129** be moved from the Natural Resources committee to the Taxation committee. Motion carried.

Senator Jent moved to reconsider Senate action on **SB 191** on January 27, 2009. Senator Jent withdrew his motion.

Senator Jent moved to reconsider the adoption of the Committee of the Whole Report from January 27, 2009. Motion failed as follows:

Yeas: Branae, Cooney, Erickson, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 301, introduced by Cooney, Ankney, Augare, Brueggeman, Cooney, Driscoll, Ebinger, Hamilton, Hollenbaugh, Hunter, Laslovich, O'Hara, Phillips, Roberts, Sands, Sesso, referred to Taxation.

SB 302, introduced by Wanzenried, Ankney, Branae, Cohenour, Cooney, Dickenson, Erickson, Glaser, Hamilton, Hollenbaugh, Kaufmann, Villa, Wanzenried, referred to Education and Cultural Resources.

SB 303, introduced by Wanzenried, referred to Natural Resources.

SB 304, introduced by R. Brown, Ankney, Bales, Barkus, Black, R. Brown, Brueggeman, Curtiss, Gebhardt, Hamlett, Jackson, Laible, Laslovich, McGee, J. Peterson, Ripley, Steinbeisser, Stewart-Peregoy, Windy Boy, Zinke, Ankney, Bennett, Glaser, Hendrick, McGillvray, Regier, Smith, Stahl, Warburton, referred to Taxation.

SB 305, introduced by Tutvedt, Ankney, Jackson, Laible, Lake, Stahl, Stoker, Tutvedt, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Ripley in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 9 - Senator Erickson moved **SB 9** do pass. Motion carried as follows:

Yeas: Barrett, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, Curtiss, Hinkle, Jackson, Ripley, Shockley, Steinbeisser.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 76 - Senator Black moved **SB 76** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 121 - Senator Jent moved **SB 121** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 136 - Senator Gebhardt moved **SB 136** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 158 - Senator Barkus moved **SB 158** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke.

Total 44

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

Nays: Balyeat, Esp, Juneau, Laslovich, Wanzenried, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 209 - Senator Laslovich moved **SB 209** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Ripley moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 65 passed as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Steinbeisser.
Total 14

Absent or not voting: None.
Total 0

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

Excused: None.
Total 0

SB 79 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 82 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 135 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Curtiss, Hinkle, McGee, Shockley.
Total 5

Absent or not voting: None.

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

Total 0

Excused: None.

Total 0

SB 176 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 226 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

UNFINISHED BUSINESS

Senator R. Brown moved that the following sponsors be added to **SB 304**: Curtiss, Hamlett, Jackson, Ripley, Steinbeisser and Windy Boy. Without objection, so ordered.

MOTIONS

Sen. Barkus moved that his vote on **SB 65** be changed from yes to no. Motion carried.

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Peterson reminded the Senators to pick up their bills from Legislative Services Division.

MOTIONS

Senator Peterson moved that the Senate recess until 6:30 p.m. and beg leave to sit again. Motion carried. The Senate recessed at 1:58 p.m.

The Senate resumed at 6:30 p.m. President Story in the chair.

Roll Call. All members present, except Senator Peterson and Senator Gallus, excused. Quorum present.

Senator McGee moved that the Senate recess and proceed to the House of Representatives for the Governor's State of the State Address. Upon adjournment of the joint session, the Senate will be adjourned until the hour of 1:00 p.m., January 29, 2009. Motion carried.

After the Senate was introduced in the House chambers, President Story assumed the chair. Senate President Pro-Tem McGee moved that the body resolve itself into a joint session for the purpose of receiving the State of the State address from the Honorable Brian Schweitzer, Governor of the State of Montana. Motion carried.

Senator McGee moved that the President be authorized to appoint a committee of four to notify the Governor that the House and Senate are in joint session and ready to receive the State of the State address. Motion carried.

President Story appointed Senator Laible, Senator Stewart-Peregoy, Representative Reichner, and Representative McClafferty, and the committee escorted Governor Schweitzer into the chambers.

The colors were posted by members of the Montana National Guard.

The following students from Helena schools dressed in contemporary and traditional regalia, directed by Indian Education Coach Joe Anderson, led the body in the Pledge of Allegiance: Quincy Bjornberg, Mariah Gladstone, Sara MacDiarmid, Bowen Simpson, Sierra Simpson, Koltin Tannichill, Kenzie Tannichill, and Kasstidy Tannichill.

Bishop George Thomas gave the invocation.

President Story introduced Governor Brian Schweitzer to the joint session, and the Governor gave the following speech:

Mr. President, Mr. Speaker, my fellow Montanans.

It is my honor to address the 61st assembly of the Montana Legislature or as Yogi Berra said, "I want to thank everybody for making this day necessary."

First and foremost, I would like to thank my best friend for, as of last week 27 years, my business partner, my wife, the mother of our children, Nancy Schweitzer.

And I'd like to introduce another woman important in my life. This woman is the daughter of Irish immigrants from the Hi-Line. They came, if you care, from Tyrone and from Donegal, my mother, Kathleen McKiernan Schweitzer.

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

And now, my friend, your Lieutenant Governor John and Karen Bohlinger. Thank you, John Bohlinger. Five years ago John and I came together with the simple proposition that we could accomplish more in Montana with a Republican and a Democrat working together in the executive office. Thanks for taking this journey for Montana, thank you, John Bohlinger.

And the Chief Justice of the Supreme Court and other members of the Supreme Court are here. Please stand. Please stand and be acknowledged.

And we have elected Tribal Leaders that are here today. Welcome the first Montanans to the most important place in Montana, these hallowed House chambers. Please stand, elected Tribal Members. Thank you. Thank you for being partners, thank you for being partners of Montana.

And if I may, I would ask President Story, Speaker Bergren, Minority (Leaders) Williams and Sales, to please stand, and with them all of the leaders of this body. Please stand, and let's give them a round of applause.

Since we met together last in this body, we've lost some extraordinary Montanans and first I want to mention my friend, your colleague, a man that was taken in his prime. I would like you to remember George Groesbeck.

I'd also like you to remember a former Lieutenant Governor by the name of Lieutenant Governor George Turman. George Turman, not unlike John Bohlinger, was a man who put Montana in front of his party; an extraordinary man.

And just recently, the wife of one of our greatest United States Senators, Donna Metcalf passed.

Also, during the last two years, two extraordinary men, who served to protect our highways, both gave their life while on duty in the Flathead. I'd like you to remember two highway patrolmen, Evan Schneider and David Graham.

In my pocket, I carry the names of the 35 men who have given their whole during this conflict in the Middle East. Today, we got word that one more extraordinary man, a Marine from Forsyth by the name of Trevor Johnson, has given his all. Please remember, in your heart, these men who have given all, and never forget their families. Never forget their sacrifice.

Montana is a land for the optimistic. For 400 generations and beyond, the first Montanans endured those tough winters knowing that surely spring would come, the snow would melt and the rivers would be renewed and refreshed again, the prairies would blossom, the buffalo and elk would be fat, and they, indeed, would be the bounty of the land.

And later, the miners came with just a pick and high hopes that around the next bend, or up the next gulch, or perhaps at the side of the mountain, they too would strike it rich.

And then the homesteaders, who planted the wheat in the spring with a prayer and harvested that crop with thanksgiving to God in the fall.

Members of this esteemed Legislature, we share a common history. Let us share a common sense of opportunity. We can accomplish more working together to build than we can tearing each other down.

The time is now for action, the families of Montana deserve nothing less. I urge you to move forward to escape the failures of the 60th Legislative Assembly, because as Benjamin Franklin said, "You may delay, but time will not."

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

In 1916, a Democratic Governor of Montana, working with a Democratic President in Washington D.C., Woodrow Wilson, decided that it would be appropriate to encourage the citizens of Montana, and then later the people of this country to help spy on one another, and we passed the Sedition Act first in Montana.

We have a little experience with these ideas, and that's why I am so proud of this Legislative Assembly in 2005, when you wrote a letter to Washington, D.C., and asked them to repeal the Patriot Act, because it is not an American value for neighbors to spy on neighbors.

I would like to identify the leaders in this body who led in that effort. Representative Campbell, please stand, Representative Villa, Representative Wiseman, please stand, Senator Kaufmann, Senator Shockley, please stand, and Senator Cooney please stand for leading in this effort. Thank you very much, you are the patriots.

Thank you.

And in 2007, when the federal government was on the verge of requiring everyone in America to carry one of their cards so they could identify when you got on plane, where you went, how you got off, if you walked into a federal building, to track all of the movement of all American citizens. It was this body in 2007 that said no thank you to the real ID.

I would like Representative Sales to please stand, Representative Villa and Wiseman, please stand, and Senator Williams and Cooney, thank you for leading in this effort. Please stand. Thank you very much.

We now know that this so-called Patriot Act was used to spy on folks who were just political adversaries. History will not judge these last six years kindly, but that same history will recognize that it was the Montana Legislature that stood up. You were the real patriots. Thank you and God bless each and every one of you.

Together, working together, we've had a remarkable 4 years. In the last 4 years Montanans have created more new jobs with the highest wages in the history of Montana. We've diversified the economy and brought new industries to Montana. We've invested more new money in education, K-12 and higher education, than any time in history, and yes, Carol Williams, we now pay for full-time, all-day kindergarten in every single school in Montana.

And you've invested in a scholarship program so that the best and brightest from every community can afford to go to college. We've cut more taxes for more Montanans than any time in history, including a \$400 check to every homeowner.

Now, most states enter these uncertain times with big deficits, but because of your fiscal management, we have created the largest budget surpluses in the history of Montana. Thank you very much.

And we've attracted companies to come to Montana from all over America, indeed all over the world; from Australia, from Ireland, from Spain, from Germany, and Canada, and beyond.

Five years ago, just five years ago, Montana was increasing the members in our correction system at nearly the fastest rate in the nation, but this body recognized that more than 50% of the people in our correction system had a mental illness that we weren't treating, or more than 90% of the people in our correction system had a drug or alcohol addiction that we weren't treating. So this body began to reform the correction system in Montana, and we are now treating those who have a mental illness, who have a drug or alcohol addiction. According to the Pew Research Foundation, Montana is decreasing our correction population at the fastest rate in America. Thank you for your leadership.

Montana is dead center in the most important energy corridor on the planet, that corridor that runs from Fort McMurray, Alberta to Port Arthur, Texas. Montana, this is our time in history. I would like to thank this Legislature,

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

because in 2005, you passed a renewable portfolio standard that attracted wind energy investors from around the country. And you followed that piece of legislation in 2007 with the Clean and Green Initiative that lowered the property taxes for people who wanted to build energy projects in Montana; and boy howdy, are they coming to Montana.

Now, there were those who doubted Montana's energy potential, but Montana is the land for optimists and so in the last 4 years, Montana has increased our oil production by 38%. That is greater than any other state in the Union; in fact, only five states have increased their oil production: Alaska, Texas, Louisiana, all decreasing oil production, and Montana's gas production is also up 34%. And optimists have come to Montana to open the first new coal mine, Signal Peak, near Roundup, for the first time in 20 years. Welcome to Montana, you optimists.

And the optimists have harnessed the wind in Montana, and during the last four years Montana has increased our wind energy portfolio at the fastest rate in the nation and I must add at the end, that an optimist from Australia has come to Montana and has partnered with the Crow Nation to build the nation's first large-scale coal-to-liquid plant called the "Many Stars Program." Welcome to Montana, you new optimists, and thank God the Crow Nation has found a partner from Australia.

Montana has taken the lead, because we need to create a new energy system, one designed by American engineers, built by American workers, that is cleaner, greener, lower carbon footprint and breaks our addiction to those petrodictators once and for all. And Montana has taken the lead.

A few years ago, I sat down with my father. He's 87 years old, the son of Montana homesteaders from the Ukraine, and I said to Dad, "What was the greatest change in your life when rural electrification came to the farm?" He considered the question for a bit, and then he said, "Well the greatest change, and it came in 1948, was that when rural electrification arrived at the farm we could weld at a little hotter temperature."

They'd had a wind charger on the farm since 1928 with batteries in the basement. Eighty years ago America had diversified, clean, green electricity with batteries in the basement in Kansas and Nebraska, in Iowa, in Minnesota, the Dakotas, in Montana, and today we are trying to find our way back.

I want to tell a story of two extraordinary members of this body, two members of this body who come from completely different places. One is a farmer, the other is a University professor. One is a Republican, one is a Democrat. But before the last legislative session they knew, both of them knew, to attract business to Montana, new alternative energy businesses to Montana, we needed to adjust our property tax rates so that we could attract these companies.

So these two men, one farmer, Llew Jones - Llew stand up, please stand up - and one professor, Ron Erickson - please stand up, Senator Erickson. Together they started an uncertain journey. That journey was to convince this body to change the tax code to attract these new companies to come to Montana. We had companies from around the world that testified and said, "If you change these laws, we will choose Montana, not Washington, not Idaho, not Wyoming, not North Dakota. We will choose Montana."

These two guys just couldn't stop thinking about tomorrow. They couldn't stop thinking about these jobs they would create for their children and grandchildren. So they wouldn't give up and one time, after another time, and a third time when the Senate rejected their idea, they would not stop thinking about tomorrow. They would not give up, and it was in the special session that these two extraordinary men were able to accomplish this extraordinary feat. We passed the legislation, and now in Llew Jones' district nearly a billion dollars worth of investment of transmission lines and wind energy is on its way. Thank you very much for believing in the future, and thank you for not giving up.

Eighteen states are taking action in America today - our competition, our coal competition from across the country. Wyoming's already passed a bill. Kansas, Oklahoma, Utah, Washington and another 12 states are in the process of

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

passing a carbon sequestration bill. You see, the companies who build these coal-gasification plants now have technology to remove the carbon dioxide from the other gases, and the carbon dioxide as a pure stream can be pumped back into the earth.

Now in Wyoming, and in other states, 17, who are either passing or have passed this legislation, they recognize that coal-gasification companies will not come to your state until you create an ownership mechanism for that void space under the earth. There is no law that tells us who owns that land under the earth today. So, that man who can't stop thinking about tomorrow, Senator Erickson, is back at it again with Senate Bill 66. He has brought this before the Energy Committee, and he suggested to them that we ought to join other states and we cannot allow Wyoming to be ahead of us. Wyoming has now passed the legislation. They're attracting the companies to come because there is certainty in ownership of those void spaces.

Senator, don't give up. And I ask the six Republican Senators who tabled this bill, please reconsider, be part of the future. Don't stop thinking about tomorrow. We need this bill passed, to be able to compete in the energy world.

Tomorrow Premier Wall of Saskatchewan is flying down to meet with me to discuss CO2. For the last half dozen years, the coal-gasification plant in Beulah, North Dakota has been capturing CO2 and piping it to the oil fields of Saskatchewan, where they pump it back into the earth and enhance their oil production. He would like to talk to us about cross-province and state ideas of sequestering that CO2, because Premier Wall knows what many of the geologists in Montana know today - that maybe as valuable as the 120 billion tons of coal we have in Montana, is the extraordinary geologic formations that we have for storing CO2. Just three formations - the Porcupine Dome north of Forsyth, the Bowdoin in Northeast Montana, and the Kevin Dome in the Golden Triangle - just these three formations could store nearly 250 years of all of the CO2 that is produced by all of the coal plants in Montana today. And we have just scratched the surface in identifying these geologic structures. So please act quickly, act prudently, and don't stop thinking about tomorrow.

Montana's state budget is much better than nearly every other state in the Union. This international credit crisis did not start in Montana, nor will it end in Montana. The nature of Montana's economy shelters us from these irrational highs and the conservative fiscal management that we have in Montana will keep us from the deepest doldrums.

But nevertheless, these are serious times and it requires thoughtful leadership. I know it's hard for the families who have lost a job recently. I know they are tightening their budgets and then re-tightening their budgets, but there is help on the way.

We have created a rapid response team led by our Department of Health and Human Services and our Department of Labor, so that if you lost your job, we will get you to unemployment benefits; if you've lost your health insurance, we will get you health benefits; and if you want another job, we will help you find it. We will assist these workers who have experienced this personal downturn.

The federal stimulus package includes dollars to build transmission lines, and pipelines, and modernize our schools and to help take care of healthcare. Senator Baucus, as Chair of the Finance Committee, and Senator Tester on the Appropriations Committee, are helping to shape the stimulus package in a way that it works for Montana. In short, help is on the way, and Montana will remain optimistic like all of the generations before.

Now with all of this big talk of big federal dollars, some may be concerned about government accountability and transparency. Or, as Will Rogers said, "It's a good thing we don't get all the government we pay for." Well, I'm here to tell you, that we will protect the public's money. We will make government more efficient and we have already started. Montana state employees have agreed that for the next two years they will receive no increase in salary. Our state employees have already begun to lead.

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

We will assure that all of these dollars will be spent in an accountable and transparent way, and we will assure you that we will oversee our road-builders, our corrections officers, our healthcare workers, our school administrators and teachers, our universities, including the 170 million dollars of research funds with little oversight. And in return, the public can be assured that we will hold the members of this assembly, and myself, to the same high standard of accountability, of transparency, of efficiency, and of effectiveness.

Transparency begins with our own leaders fully disclosing any funds that they receive from any public sources such as salaries, or grants, consultancy fees, farm payments, grazing subsidies, state and federal leases, research grants, and retirement benefits accrued or received.

Now over the last four years, as you know, we didn't raise taxes; we were cutting taxes. And today, almost everybody in Montana knows that there is a re-appraisal of the property tax across Montana. We have committed that, on the basis of this re-appraisal, not one new dollar will be collected by the State of Montana. Not one new dollar.

In 2005 and 2007, we worked on the business equipment tax. We were hoping to eliminate the business equipment tax for 90% of the business in Montana, virtually every farm and ranch, and every small business. I would ask, you, the members of this 61st Assembly, to please finish the job and please eliminate the business equipment tax for 90% of the businesses in Montana.

In the recent election, Montana spoke and they spoke strongly. They told us that they believe that we ought to cover more children in the Child Health Insurance Program. By overwhelming numbers Montana voted to invest in the future by investing in children's health. I call on this body to follow Representative Chuck Hunter, and House Bill 157 - invest the money that the people of Montana have asked you, do it without dispatch. Thank you very much.

In 1985, this body passed a stream access bill. Now, during the last 20 years, the ball has bounced back and forth and forth and back and many legislative assemblies have attempted to get the balance just right. Well, Representative Kendall Van Dyk, please stand. Kendall, has brought forward a compromise, one that Republicans and Democrats alike are supporting.

I would like Kendal Van Dyk to be recognized as a man who was able to bring Montana together, bringing Republicans and Democrats together for a common cause. The families of Montana who like to hunt, camp, and fish are expecting you to finish this job, and the lobbyists who represent the out-of-state landowners, and the anti-fishing and hunting groups, will not fool the 61st Assembly of the Montana Legislature. Thank you very much, Kendall.

There is nothing as important as education in Montana. We do have one of the best K-12 systems in America as rated against the other states, but we're still behind Canada, and Taiwan, and Finland, and Singapore, and another two dozen countries around the world. We will continue to be a leader in energy, only if we are a leader in education.

I would like to honor a very special person today. This is a man who was trained as a geologist and engineer. He worked 25 years as a geologist, and then he said, "I want to change the world as an educator, not just as an engineer." And so he started taking credits online at the Western Governors University, and he accumulated enough credits to become a teacher. And now, he is a science teacher at Fairfield School. Ray Hahn, would you please stand. Please stand. Let's honor this scientist, who decided he wanted to give back. And could I ask every educator present today, would you please stand and be recognized by this body? Please stand if you are an educator. God bless you. You are the future.

Education innovation includes distance learning, as Ray found out. We need to push our universities to offer more distance learning courses, to stream those classes into the homes and the high schools of Montana, so that every high school student can take classes at the university level at the same time that they're getting credit at the high school level. We need to have a rapid ability to train, and re-train Montanans for these emerging jobs, and that means innovation in education, and we need to move now.

SENATE JOURNAL
TWENTIETH LEGISLATIVE DAY - JANUARY 28, 2009

Now, I know, as I look across this body, faces of Republican legislators, and faces of Democratic legislators. I remember during the campaign cycles, both Republicans and Democrats saying if elected, they would do their level best to raise teachers' salaries.

Furthermore, we heard many people say that we ought to have a tax system that is more similar to Wyoming's, where when they drill for oil and collect that oil, some of that money is directly used to pay higher teachers' salaries. I have been listening to you, I've been listening to Montana, and once again, Kendall Van Dyk has been listening, and he's proposed a bill, House Bill 388, which he calls "Energy for Education" or "E2."

Simply stated, these dollars from oil production would be used directly to increase teachers' salaries, but Montana would continue to maintain an oil tax rate that is lower than Wyoming. What could be better than that? Lower oil taxes, higher teachers' salaries.

For all of you who've told the folks back home that you support higher teachers' salaries, I think it is time to turn those promises into action. And if I were you, I would see Kendall Van Dyk and become a co-sponsor of his bill tomorrow morning.

We do have some difficult decisions to make together. These decisions aren't just about money; they're about people and families. Let us resolve to never forget who we work for. We work for the farmer, the miner, the single mom with a disabled child, the small businessman, the truck driver.

And to help us remember our common hope and optimism, I want to close with these words that have been spoken by others, "The real test of government is how that government treats those who are in the dawn of life...our children...how that government treats those who are in the twilight of life...the elderly...and how that government treats those who are in the shadows of life...the disabled...the handicapped...the sick."

Members of the 61st Assembly, we will be judged by our actions, not by our words.

Thank you. God bless you. God bless Montana, and God bless America.

Following the State of the State address by Governor Schweitzer, President Story called upon Bishop Thomas to give the benediction.

Senator McGee moved that the joint session of the 61st Legislature be adjourned. Motion carried.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-FIRST LEGISLATIVE DAY**

Helena, Montana
January 29, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator J. Peterson, excused. Quorum present.

BILLS AND JOURNALS:

1/29/2009

Correctly printed: **SB 9, SB 76, SB 92, SB 121, SB 136, SB 158, SB 209, SB 256, SB 301, SB 302, SB 303, SB 304, SB 305.**

Correctly engrossed: **SB 164, SB 189, SJR 15.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 224, do pass. Report adopted.

1/29/2009

LOCAL GOVERNMENT (Esp, Chairman):
SB 262, do pass. Report adopted.

1/29/2009

NATURAL RESOURCES (Gebhardt, Chairman):
SB 62, introduced bill, be amended as follows:

1/29/2009

1. Title, page 1, line 5.

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "AND 75-1-1101"

2. Page 1.

Strike: line 26 through line 27 in their entirety

3. Page 2, line 1.

Strike: "and"

4. Page 2, line 2.

Strike: "."

Insert: "; and"

5. Page 2.

Following: line 2

Insert: "(iii) \$175,000 to be deposited in the environmental contingency account established in 75-1-1101."

6. Page 2, line 16 through page 4, line 15.

Strike: section 2 in its entirety

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SENATE JOURNAL
TWENTY-FIRST LEGISLATIVE DAY - JANUARY 29, 2009

SB 71, introduced bill, be amended as follows:

1. Title, page 1, line 7 through line 8.

Strike: "AUTHORIZING" on line 7 through "ACT;" on line 8

2. Title, page 1, line 10.

Following: "RELEASE;"

Insert: "AND"

3. Title, page 1, line 10 through line 11.

Strike: "; AND" on line 10 through "DATE" on line 11

4. Page 5, line 19 through line 25.

Strike: subsection (11) in its entirety

5. Page 8, line 22.

Strike: section 3 in its entirety

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

1/29/2009

SB 49, do pass. Report adopted.

SB 252, do pass. Report adopted.

TAXATION (Essmann, Chairman):

1/29/2009

SB 132, introduced bill, be amended as follows:

1. Title, line 10.

Following: "STATE;"

Insert: "AUTHORIZING THE DEPARTMENT OF REVENUE TO DISCLOSE CERTAIN RESOURCE INDEMNITY TRUST AND GROUND WATER ASSESSMENT INFORMATION; LIMITING DISCLOSURE OF RESOURCE INDEMNITY TRUST AND GROUND WATER ASSESSMENT INFORMATION;"

2. Title, line 15.

Following: "15-31-603,"

Insert: "15-38-109,"

Strike: "REPEALING SECTION 15-38-109, MCA;"

3. Page 1, line 18 through line 29.

Strike: the preamble on page 1, line 18 through line 29 in its entirety

4. Page 6, line 22.

Insert: "Section 4. Section 15-38-109, MCA, is amended to read:

"15-38-109. Restricted access to records information. (1) The Except as provided in subsection (2), it is unlawful for an employee of the department or any other public official or public employee to divulge or otherwise make known information furnished by the producer to the department for the purpose of this chapter must be treated as provided in 15-31-511 that is disclosed in a report or return required to be filed under this chapter or secured in the administration of this chapter.

(2) (a) This section does not prohibit the disclosure of information to the department of environmental quality

SENATE JOURNAL
TWENTY-FIRST LEGISLATIVE DAY - JANUARY 29, 2009

necessary for the administration of the resource indemnity trust and ground water assessment fee provided for in this chapter.

(b) The information furnished under subsection (2)(a):

(i) is not a public record and may be used only for purposes described in subsection (2)(a); and

(ii) is subject to the same restrictions on disclosure outside the department of environment quality as provided in subsection (1)."

Renumber: subsequent sections

5. Page 8, line 11.

Following: "The"

Insert: "last four digits of the corporation's"

Strike: "of the corporation"

6. Page 9, line 17.

Following: "The"

Insert: "last four digits of the"

7. Page 9, line 20.

Strike: section 7 in its entirety

Renumber: subsequent sections

8. Page 9, line 24.

Strike: "5"

Insert: "6"

Strike: "6"

Insert: "7"

9. Page 9, line 25.

Strike: "7"

Insert: "4"

10. Page 9, line 27.

Strike: "5"

Insert: "6"

Strike: "6"

Insert: "7"

11. Page 9, line 29.

Strike: "7"

Insert: "4"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/28/2009

HB 48, introduced by B. Beck

HB 168, introduced by Roundstone

HB 190, introduced by Van Dyk

SENATE JOURNAL
TWENTY-FIRST LEGISLATIVE DAY - JANUARY 29, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 306, introduced by Esp, McGee, Tutvedt, referred to Natural Resources.

SB 307, introduced by Tutvedt, referred to Natural Resources.

SB 308, introduced by Keane, Ankney, Brueggeman, Cohenour, Cooney, Gebhardt, Glaser, Hamlett, Klock, Laslovich, A. Noonan, O'Hara, Stahl, Villa, Wilson, referred to Business, Labor, and Economic Affairs.

SB 309, introduced by Shockley, Gebhardt, referred to State Administration.

SB 310, introduced by Shockley, McGee, referred to Local Government.

SB 311, introduced by Gallus, referred to Judiciary.

SB 312, introduced by Story, referred to Education and Cultural Resources.

SB 313, introduced by Laible, referred to Education and Cultural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Barkus moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator M. Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 123 - Senator Squires moved **SB 123** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SB 170 - Senator Gebhardt moved **SB 170** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

SENATE JOURNAL
TWENTY-FIRST LEGISLATIVE DAY - JANUARY 29, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SB 173 - Senator Murphy moved **SB 173** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SB 219 - Senator Squires moved **SB 219** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SJR 5 - Senator Laible moved **SJR 5** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

SENATE JOURNAL
TWENTY-FIRST LEGISLATIVE DAY - JANUARY 29, 2009

Nays: Essmann, Hinkle, Jent, Keane, McGee, Ripley.
Total 6

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

Senator Barkus moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman M. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 9 passed as follows:

Yeas: Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 39

Nays: Bales, Balyeat, Barkus, Brenden, Curtiss, Hinkle, Jackson, Ripley, Shockley, Steinbeisser.
Total 10

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 76 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Peterson.

SENATE JOURNAL
TWENTY-FIRST LEGISLATIVE DAY - JANUARY 29, 2009

Total 1

SB 121 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SB 136 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SB 158 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke.

Total 42

Nays: Balyeat, Esp, Hinkle, Juneau, Laslovich, Wanzenried, Mr. President.

Total 7

Absent or not voting: None.

Total 0

SENATE JOURNAL
TWENTY-FIRST LEGISLATIVE DAY - JANUARY 29, 2009

Excused: Peterson.
Total 1

SB 209 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

MOTIONS

Senator Brenden moved to change his vote on **SB 9** from yea to nay. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, January 30, 2009. Motion carried.

Senate adjourned at 1:45 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-SECOND LEGISLATIVE DAY**

Helena, Montana
January 30, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator J. Peterson, excused. Quorum present.

BILLS AND JOURNALS:

1/30/2009

Correctly printed: **SB 49, SB 123, SB 170, SB 173, SB 219, SB 224, SB 252, SB 262, SB 306, SB 307, SB 308, SB 309, SB 310, SB 311, SB 312, SB 313, SJR 5.**

Correctly engrossed: **SB 62, SB 71, SB 132.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):
SB 214, introduced bill, be amended as follows:

1/29/2009

1. Page 7, line 5.

Strike: "at least 1 year"

Insert: "416 hours"

2. Page 7, line 6.

Following: "service"

Insert: "during a 1-year period, in the offender's county of residence"

3. Page 7, line 26.

Strike: "at least 1 year"

Insert: "416 hours"

Following: "community service"

Insert: "during a 1-year period, in the offender's county of residence"

And, as amended, do pass. Report adopted.

SJR 11, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 247, introduced bill, be amended as follows:

1/30/2009

1. Title, page 1, line 6.

Following: the second "RECORDS;"

Insert: "AND"

2. Title, page 1, line 7.

Following: "MISDEMEANOR"

Strike: ";" through "DATE"

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

3. Page 2, line 15.

Following: "seller"

Insert: ", except that the identification copies required under this subsection (2)(d) do not apply if a check for payment is provided to a seller"

4. Page 2, line 25.

Strike: section 5 in its entirety

And, as amended, do pass. Report adopted.

SB 253, do pass. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

1/30/2009

SB 18, introduced bill, be amended as follows:

1. Page 3, line 7 through line 8.

Strike: "The source" on line 7 through "estimate." on line 8

And, as amended, do pass. Report adopted.

SB 157, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

1/30/2009

SB 184, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "SPECIAL"

2. Page 1, line 11.

Following: "licenses"

Insert: "-- availability of bear and mountain lion licenses"

3. Page 1, line 29.

Strike: "Special licenses"

Insert: "Licenses"

4. Page 1, line 30.

Following: "purchases a"

Strike: "special"

5. Page 2, line 2.

Strike: "Special licenses"

Insert: "Licenses"

6. Page 2, line 3.

Following: "purchases a"

Strike: "special"

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

7. Page 2, line 5.

Strike: "Special licenses"

Insert: "Licenses"

8. Page 2, line 6.

Following: "purchases a"

Strike: "special"

And, as amended, do pass. Report adopted.

SB 185, do pass. Report adopted.

SB 188, do pass. Report adopted.

SB 202, introduced bill, be amended as follows:

1. Page 1, line 26.

Following: "garden,"

Insert: "in the normal recreational feeding of birds,"

2. Page 2, line 3.

Following: "animals."

Insert: "The term does not include growing plants or plants harvested for the feeding of livestock."

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

1/30/2009

SB 64, introduced bill, be amended as follows:

1. Page 1, line 24.

Strike: "previous"

2. Page 1.

Following: line 26

Insert: "(2) Hours spent on call are not considered to be hours providing care for the purposes of this section."

Renumber: subsequent subsections

3. Page 2, line 12.

Strike: "(3)(c)"

Insert: "(4)(c)"

4. Page 2, line 20.

Strike: "has served, in the previous calendar year,"

Insert: "during the tax year purchased a license plate and provided"

Following: "120 hours"

Insert: "of emergency medical care"

5. Page 2, line 23.

Strike: "previous calendar"

Insert: "tax"

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

6. Page 2, line 24.

Strike: "previous calendar"

Insert: "tax"

7. Page 2, line 27.

Strike: "calendar"

Insert: "tax"

8. Page 3, line 1.

Strike: "previous calendar"

Insert: "tax"

9. Page 3, line 4.

Strike: "in the previous year"

10. Page 3.

Following: line 5

Insert: "(6) If a tax credit is claimed under this section for a license plate issued for a vehicle registered to more than one volunteer emergency medical technician, only one registered owner may claim the tax credit."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 222, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "REQUIRED"

2. Page 1, line 13.

Strike: "shall"

Insert: "may"

3. Page 1, line 16.

Strike: "must"

Insert: "may"

And, as amended, do pass. Report adopted.

SB 237, introduced bill, be amended as follows:

1. Page 5, line 8.

Following: "vehicle"

Strike: "or aircraft"

2. Page 5, line 23.

Following: "or"

Insert: "the appropriate use of a"

3. Page 5, line 24 through line 25.

Following: "product"

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

Strike: "and as is appropriate for the age, weight, and height of a minor child"

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

1/30/2009

SB 249, introduced bill, be amended as follows:

1. Title, line 6.

Following: "61-5-103"

Strike: ", "

Insert: "AND"

2. Title, line 7.

Strike: "AND 61-5-125,"

3. Page 1, line 12.

Strike: "4"

Insert: "3"

4. Page 2, line 5.

Strike: "4"

Insert: "3"

5. Page 3, line 1 through page 4, line 17.

Strike: section 3 in its entirety

Renumber: subsequent sections

6. Page 4, line 26.

Following: "least"

Strike: "7"

Insert: "8"

7. Page 5, line 9.

Strike: "1-year"

Insert: "3-year"

8. Page 5, line 29 through page 6, line 1.

Following: "register." on line 29

Strike: remainder of line 29 through "series." on page 6, line 1

9. Page 6, line 3.

Following: "[Section]"

Strike: "4"

Insert: "3"

10. Page 6, line 4.

Following: "[section]"

Strike: "4"

Insert: "3"

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/29/2009

HB 13, introduced by Hunter

HB 129, introduced by Getz

HB 205, introduced by Ebinger

HB 221, introduced by Cohenour

MOTIONS

Senator Esp moved to confirm the appointments of Senator Gillan and Senator Balyeat to the Economic Development Advisory Council. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 314, introduced by Laible, referred to Natural Resources.

SB 315, introduced by Zinke, Arntzen, Blasdel, Brenden, T. Brown, Brueggeman, Essmann, Hollandsworth, Jackson, Kasten, Laible, Lewis, McGee, McGillvray, Mendenhall, More, Nooney, Perry, K. Peterson, Ripley, Sales, Smith, Stahl, Steinbeisser, Taylor, Tutvedt, Vincent, Washburn, referred to Taxation.

SB 316, introduced by Essmann, referred to Judiciary.

SB 317, introduced by Kaufmann, Caferro, referred to Taxation.

SB 318, introduced by Kaufmann, Caferro, referred to Judiciary.

SB 319, introduced by Keane, Hendrick, Windy Boy, referred to Highways and Transportation.

SB 320, introduced by Williams, referred to State Administration.

SB 321, introduced by Williams, referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator T. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 92 - Senator Jent moved **SB 92** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Erickson, Juneau, Kaufmann.

Total 3

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 164 - Senator Debby Barrett moved **SB 164** do pass.

SB 164 - Senator Shockley moved **SB 164**, second reading copy, be amended as follows:

1. Page 4, line 6.

Strike: "40%"

Insert: "20%"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Tutvedt.
Total 1

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 164 - Senator Debby Barrett moved **SB 164**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 189 - Senator Balyeat moved **SB 189** do pass.

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

SB 189 - Senator Laslovich moved **SB 189**, second reading copy, be amended as follows:

1. Title, line 7 through line 8.

Following: "PROCEEDS" on line 7

Strike: remainder of line 7 through "MADE" on line 8

2. Page 1, line 22.

Following: "of consumers"

Strike: "to the consumers on whose behalf the settlement is made"

3. Page 1, line 23.

Following: "distributed"

Strike: "to consumers pursuant to this subsection (1)(b) within 1 year after the proceeds are received"

Insert: "for the benefit of consumers pursuant to the terms of the settlement"

4. Page 1, line 25.

Following: line 24

Insert: "(2) The procedures adopted by the department pursuant to subsection (1)(b) must include the establishment of a consumer advisory council by the attorney general in accordance with 2-15-122. The consumer advisory council must include five members consisting of one consumer advocate, two legislative members representing both elected parties, and two citizens at large. The consumer advisory council shall review settlements obtained by the department and shall provide recommendations to the attorney general to ensure that the proceeds of any settlement are distributed to consumers or consumer groups on whose behalf the settlement was obtained.

(3) The attorney general shall provide an annual report to the legislative audit committee describing the settlements obtained by the department and how the settlement proceeds were distributed."

Renumber: subsequent subsection

5. Page 2, line 7.

Following: "of consumers"

Strike: "to the consumers on whose behalf the settlement is made"

6. Page 2, line 8.

Following: "distributed"

Strike: "to consumers pursuant to this subsection within 1 year after the proceeds are received"

Insert: "for the benefit of consumers pursuant to the terms of the settlement"

7. Page 2, line 10.

Following: line 9

Insert: "(3) The procedures adopted by the department pursuant to subsection (2) must include the establishment of a consumer advisory council by the attorney general in accordance with 2-15-122. The consumer advisory council must include five members consisting of one consumer advocate, two legislative members representing both elected parties, and two citizens at large. The consumer advisory council shall review settlements obtained by the department and shall provide recommendations to the attorney general to ensure that the proceeds of any settlement are distributed to consumers or consumer groups on whose behalf the settlement was obtained.

(4) The attorney general shall provide an annual report to the legislative audit committee describing the settlements obtained by the department and how the settlement proceeds were distributed."

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.

Total 21

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 28

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SB 189 - Motion that **SB 189** do pass carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 30

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.

Total 19

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

Senator Barkus moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Gallus.

Total 1

Absent or not voting: None.

Total 0

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

Excused: Peterson.
Total 1

Sen. Story introduced former U.S. Senator Conrad Burns to the Senate.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 123 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 170 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Peterson.
Total 1

SB 173 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley,

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SB 219 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SJR 5 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Essmann, Hinkle, Jent, McGee, Ripley.

Total 5

Absent or not voting: None.

Total 0

Excused: Peterson.

Total 1

SENATE JOURNAL
TWENTY-SECOND LEGISLATIVE DAY - JANUARY 30, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Barkus moved that the Senate adjourn until 8:00 a.m., Saturday, January 31, 2009. Motion carried.

Senate adjourned at 3:04 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-THIRD LEGISLATIVE DAY**

Helena, Montana
January 31, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Hansen, Jent, and Windy Boy, excused. Quorum present.

Senator Jent present.

BILLS AND JOURNALS:

1/31/2009

Correctly printed: **SB 92, SB 157, SB 185, SB 188, SB 189, SB 253, SB 314, SB 315, SB 316, SB 317, SB 318, SB 319, SB 320, SB 321, SJR 11.**

Correctly engrossed: **SB 18, SB 64, SB 164, SB 184, SB 202, SB 214, SB 222, SB 237, SB 247, SB 249.**

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

1/31/2009

SJR 3, do pass. Report adopted.

SJR 9, introduced joint resolution, be amended as follows:

1. Page 1, line 28.

Following: line 27

Insert: "(1) the cumulative availability and amount of all sources of financial aid to Montana students;"

Renumber: subsequent subsections

2. Page 2, line 2.

Following: "focus on"

Insert: "the availability and utilization of financial aid to Montana students and on"

Following: "analysis of"

Insert: "loan default rates and"

3. Page 2, line 3.

Strike: "the optimal level"

Insert: "manageable levels"

Following: "to identify"

Insert: "appropriate"

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

1/31/2009

SB 63, introduced bill, be amended as follows:

1. Page 1, line 25.

Following: "medical care"

Strike: "in the previous calendar"

Insert: "during the tax"

SENATE JOURNAL
TWENTY-THIRD LEGISLATIVE DAY - JANUARY 31, 2009

2. Page 4, line 26.

Following: "beginning"

Insert: "on or after"

And, as amended, do pass. Report adopted.

SB 208, do pass. Report adopted.

SB 235, do pass. Report adopted.

SB 275, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

1/31/2009

SB 90, introduced bill, be amended as follows:

1. Page 3, line 13.

Following: "contact"

Insert: ", as provided in subsection (8),"

2. Page 4, line 21.

Following: "(8)"

Insert: "(a)"

3. Page 4, line 21 through line 22.

Following: "(2)(d)" on line 21

Strike: remainder of line 21 through "legislature" on line 22

4. Page 4, line 22.

Following: "a"

Insert: "current or"

Following: "notice"

Strike: "may"

Insert: "shall"

Following: "keep the"

Insert: "current or"

5. Page 4, line 23.

Following: "state."

Insert: "The secretary of state shall update the contact information whenever the secretary of state receives corrected information from the legislator."

6. Page 4.

Following: line 24

Insert: "(b) An agency has complied with the primary bill sponsor contact requirements of this section when the agency has attempted to reach the primary bill sponsor at the legislator's address, e-mail address, and telephone number on file with the secretary of state pursuant to subsection (8)(a)."

And, as amended, do pass. Report adopted.

SENATE JOURNAL
TWENTY-THIRD LEGISLATIVE DAY - JANUARY 31, 2009

SB 227, introduced bill, be amended as follows:

1. Page 1, line 17.

Strike: "and"

2. Page 1, line 18.

Strike: "on" through "October"

Insert: ", April, July, August, and September"

3. Page 1, line 19.

Following: "on the"

Insert: "15th and"

Strike: "day"

Insert: "days"

4. Page 1, line 23.

Strike: "October"

Insert: "September"

5. Page 2, line 1.

Strike: "October"

Insert: "September"

6. Page 2, line 2.

Following: "~~15th and~~"

Insert: "15th and"

Strike: "day"

Insert: "days"

7. Page 2, line 6.

Strike: "October"

Insert: "September"

And, as amended, do pass. Report adopted.

SB 229, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/30/2009

HB 40, introduced by Cohenour

HB 59, introduced by Hamilton

HB 147, introduced by MacLaren

HB 238, introduced by Milburn

SENATE JOURNAL
TWENTY-THIRD LEGISLATIVE DAY - JANUARY 31, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 322, introduced by Curtiss, referred to Agriculture, Livestock and Irrigation.

SB 323, introduced by Erickson, Kottel, referred to Business, Labor, and Economic Affairs.

SB 324, introduced by Jackson, referred to Natural Resources.

SB 325, introduced by Perry, referred to Public Health, Welfare and Safety.

SB 326, introduced by Erickson, referred to Public Health, Welfare and Safety.

SB 327, introduced by Curtiss, Arntzen, Bales, B. Beck, Bennett, Blasdel, Boniek, Butcher, Himmelberger, Hinkle, Jackson, Kerns, McGee, McGillvray, Mendenhall, More, Murphy, O'Hara, Perry, K. Peterson, Randall, Regier, Reichner, Sales, Smith, Sonju, Vincent, Washburn, Windy Boy, referred to Judiciary.

SB 328, introduced by Branae, referred to State Administration.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 92 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 45

Nays: Erickson, Juneau, Kaufmann.

Total 3

Absent or not voting: None.

Total 0

Excused: Hansen, Windy Boy.

Total 2

SB 189 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 30

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Wanzenried, Williams, Windy Boy.

Total 20

Paired: Barkus, Mr. President, Aye; Hansen, Windy Boy, No.

Absent or not voting: None.

Total 0

SENATE JOURNAL
TWENTY-THIRD LEGISLATIVE DAY - JANUARY 31, 2009

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Kaufmann in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SJR 15 - Senator Tutvedt moved **SJR 15** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Windy Boy.
Total 2

SB 148 - Senator J. Peterson moved **SB 148** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: Stewart-Peregoy.
Total 1

Absent or not voting: None.
Total 0

Excused: Hansen, Windy Boy.
Total 2

SB 256 - Senator Shockley moved **SB 256** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann,

SENATE JOURNAL
TWENTY-THIRD LEGISLATIVE DAY - JANUARY 31, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Hansen, Windy Boy.

Total 2

SJR 7 - Senator Brenden moved **SJR 7** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 29

Nays: Branae, Cooney, Erickson, Esp, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 19

Absent or not voting: None.

Total 0

Excused: Hansen, Windy Boy.

Total 2

SB 81 - Senator McGee moved **SB 81** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Perry, Ripley, Shockley, Mr. President.

Total 21

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.

Total 27

Absent or not voting: None.

Total 0

Excused: Hansen, Windy Boy.

Total 2

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 81** will progress as though it had received the majority vote.

SENATE JOURNAL
TWENTY-THIRD LEGISLATIVE DAY - JANUARY 31, 2009

SB 80 - Senator McGee moved **SB 80** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Perry, Shockley, Mr. President.

Total 18

Nays: Black, Branae, R. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.

Total 30

Absent or not voting: None.

Total 0

Excused: Hansen, Windy Boy.

Total 2

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 80** will progress as though it had received the majority vote.

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Kaufmann moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

Senator Barkus acknowledged the Pages for their work during the week of January 26-31, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, February 2, 2009. Motion carried.

Senate adjourned at 10:02 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
February 2, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson . Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Erickson, Schmidt, and Shockley, excused. Quorum present.

BILLS AND JOURNALS:

2/2/2009

Correctly printed: **SB 80, SB 81, SB 148, SB 208, SB 229, SB 235, SB 256, SB 275, SB 322, SB 323, SB 324, SB 325, SB 326, SB 327, SB 328, SJR 3, SJR 7, SJR 15.**

Correctly engrossed: **SB 63, SB 90, SB 227, SJR 9.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

2/2/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 a.m., Saturday, January 31, 2009:

TITLE

NAME

Pages:

Michelle Carey, Missoula
Stephanie Courville, Ronan
Adam Cook, Missoula
Harlan Reidmohr, Helena
Konnor Scally, Martinsdale
Bridger Mahlum, Big Fork

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 2, 2009:

TITLE

NAME

Pages:

Faith Grover, Helena
Taylor Billing, Jordan
Kari Rice, Helena
Charles French, Paradise
Brice Grotbo, Shelby
Morgan Boharski, Kalispell
Madison Brooke, Bozeman

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/31/2009

HB 21, introduced by Dickenson

HB 30, introduced by Wilmer

HB 118, introduced by Klock

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

HB 242, introduced by McAlpin

HB 244, introduced by Ankney

HB 245, introduced by Ankney

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 329, introduced by Barkus, Bales, B. Beck, Blasdel, Brenden, Esp, Hinkle, Perry, Sonju, Vance, referred to Highways and Transportation.

SB 330, introduced by Moss, referred to Public Health, Welfare and Safety.

SB 331, introduced by Balyeat, Bales, Barkus, Debby Barrett, Brenden, R. Brown, T. Brown, Curtiss, Cohenour, Ebinger, Erickson, Essmann, Gebhardt, Hamlett, Hawk, Hinkle, Jackson, Jent, Laslovich, Lewis, McGee, Perry, Phillips, Steinbeisser, J. Tropila, Wanzenried, Windy Boy, Zinke, referred to Judiciary.

SB 332, introduced by Balyeat, Gebhardt, Hinkle, Jackson, Steinbeisser, referred to Judiciary.

SB 333, introduced by Balyeat, Barkus, Debby Barrett, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, Steinbeisser, Zinke, referred to Judiciary.

SB 334, introduced by Balyeat, Brenden, Curtiss, Gebhardt, Hinkle, Jackson, Murphy, Ripley, Steinbeisser, referred to Judiciary.

SB 335, introduced by Balyeat, Barkus, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Perry, Ripley, Steinbeisser, Windy Boy, referred to Business, Labor, and Economic Affairs.

SB 336, introduced by Balyeat, T. Brown, Curtiss, Gebhardt, Hinkle, Jackson, Steinbeisser, Story, Windy Boy, referred to Fish and Game.

SB 337, introduced by Brenden, Bales, Barkus, Debby Barrett, T. Brown, Curtiss, Gebhardt, Hinkle, Kasten, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, referred to Agriculture, Livestock and Irrigation.

SB 338, introduced by Essmann, referred to Judiciary.

SB 339, introduced by Hinkle, Barkus, Curtiss, Jackson, referred to Business, Labor, and Economic Affairs.

SB 340, introduced by Laslovich, referred to Judiciary.

SB 341, introduced by Laslovich, referred to Judiciary.

SB 342, introduced by Essmann, O'Hara, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 18, introduced by Moss, Driscoll, referred to State Administration.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 2, introduced by Shockley, referred to State Administration.

The following House bill was introduced, read first time, and referred to committee:

HB 13, introduced by Hunter, referred to Finance and Claims.

Senator Schmidt present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 18 - Senator Wanzenried moved **SB 18** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Shockley.

Total 2

SB 64 - Senator Laible moved **SB 64** do pass.

SB 64 - Senator Laible made a **substitute motion** that **SB 64** pass consideration for the day. Motion carried.

SB 113 - Senator Keane moved **SB 113** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: Erickson, Shockley.

Total 2

SB 184 - Senator Balyeat moved **SB 184** do pass.

Senator Balyeat moved **SB 184**, second reading copy, be amended as follows:

1. Title, page 1, line 9.

Strike: "A DELAYED"

Insert: "AN IMMEDIATE"

2. Page 2, line 13.

Strike: "March 1, 2010"

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

Insert: "on passage and approval"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Esp, Juneau, Kaufmann, Keane, Stewart-Peregoy, Windy Boy.
Total 6

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 184 - Senator Balyeat moved **SB 184**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 44

Nays: Juneau, Kaufmann, Keane, Windy Boy.
Total 4

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 197 - Senator Laslovich moved **SB 197** do pass.

Senator Laslovich moved **SB 197**, second reading copy, be amended as follows:

1. Page 1, line 11 through line 16.

Following: "**costs.**" on line 11

Strike: subsection (1) in its entirety

Insert: "(1) When a transcript of the testimony and proceedings of a trial or hearing or a part of a trial or hearing is requested, a court reporter shall furnish the transcript to the requester with all reasonable diligence. The court reporter shall submit an invoice with the transcript when it is furnished. The court reporter may withhold delivery of the transcript until the transcription fee is paid or satisfactory arrangement for payment is made."

2. Page 2, line 4.

Following: "costs"

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

Strike: "in the Montana administrative register"

Insert: "on the judicial branch website"

3. Page 2, line 17.

Following: "by the"

Strike: "state"

Following: "office of"

Insert: "state"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Shockley.

Total 2

SB 197 - Senator Laslovich moved **SB 197**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Shockley.

Total 2

SB 202 - Senator Hinkle moved **SB 202** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 44

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

Nays: Balyeat, Curtiss, Keane, Windy Boy.
Total 4

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 214 - Senator Steinbeisser moved **SB 214** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: R. Brown, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 247 - Senator Black moved **SB 247** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, R. Brown, Keane.
Total 3

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 252 - Senator Cooney moved **SB 252** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SJR 11 - Senator Brueggeman moved **SJR 11** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Esp, Hinkle, Tutvedt.
Total 4

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 80 received the following vote:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Perry, Peterson, Shockley, Mr. President.
Total 20

Nays: Branae, R. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 30

Paired: Barkus, Shockley, Aye; Erickson, Laslovich, No.

Absent or not voting: None.
Total 0

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

Excused: None.
Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 80** will progress as though it had received the majority vote.

SB 81 received the following vote:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Mr. President.
Total 21

Nays: Branae, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Paired: Barkus, Shockley, Aye; Erickson, Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 81** will progress as though it had received the majority vote.

SB 148 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.
Total 41

Nays: Gallus, Juneau, Kaufmann, Keane, Stewart-Peregoy, Wanzenried, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 164 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Paired: Essmann, Shockley, Aye; Erickson, Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 256 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SJR 7 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 32

Nays: Branae, Cooney, Erickson, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 18

Paired: Barkus, Shockley, Aye; Erickson, Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
TWENTY-FOURTH LEGISLATIVE DAY - FEBRUARY 2, 2009

SJR 15 passed as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SPECIAL ORDERS OF THE DAY

Senator R. Brown introduced the Pages for the week of February 2-7, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Williams announced the Democrats would caucus upon adjournment.

Senator Peterson announced the Republicans would caucus upon adjournment.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, February 3, 2009. Motion carried.

Senate adjourned at 2:19 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 3, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

2/3/2009

Correctly printed: **SB 18, SB 113, SB 202, SB 214, SB 247, SB 252, SB 329, SB 330, SB 331, SB 332, SB 333, SB 334, SB 335, SB 336, SB 337, SB 338, SB 339, SB 340, SB 341, SB 342, SJR 11, SJR 18, SR 2.**
Correctly engrossed: **SB 184, SB 197.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 242, introduced bill, be amended as follows:

2/3/2009

1. Page 1, line 13.

Following: "apply to"

Insert: ":

(a)"

2. Page 1, line 14.

Following: "families"

Insert: "in private residences or apartments of six or fewer families"

3. Page 1, line 16.

Following: "families"

Insert: "in private residences or apartments of six or fewer families; or

(b) a steam heating boiler operated at not over 15 pounds per square inch gauge pressure in a commercial building or to a hot water heating or supply boiler operated at not over 30 pounds per square inch gauge pressure and temperatures not over 190 degrees F in a commercial building when the boiler is the sole boiler of that type in the commercial building and is operated and maintained by the owner"

And, as amended, do pass. Report adopted.

SJR 16, introduced joint resolution, be amended as follows:

1. Title, page 1, line 5.

Strike: "ISSUE OF"

Insert: "ISSUES OF UNDERINSURED AND"

2. Page 1, line 16.

Following: "difficult"

Insert: "and the purchase of adequate coverage above the required limits financially difficult for those who do buy insurance"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

3. Page 1, line 29.

Strike: "issue of"

Insert: "issues of underinsured and"

4. Page 2, line 4.

Following: "by"

Insert: "underinsured and"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

2/2/2009

SB 255, introduced bill, be amended as follows:

1. Page 1, line 13.

Strike: "of annexation"

Insert: "the annexation proceeding was commenced"

And, as amended, do pass. Report adopted.

SB 261, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

2/3/2009

SB 97, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "75-11-308,"

2. Page 5, line 18.

Strike: "the board determines"

Strike: "or will receive"

3. Page 5, line 19.

Following: "insurer"

Insert: "or other third party"

4. Page 7, line 5 through line 7.

Strike: subsection (6) in its entirety

Renumber: subsequent subsection

5. Page 7, line 13 through page 8, line 14.

Strike: section 3 in its entirety

Renumber: subsequent sections

6. Page 11, line 3.

Strike: "30"

Insert: "120"

Following: the second "the"

Insert: "board's"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

7. Page 11, line 4.

Following: "mail."

Insert: "The notice of determination must advise the owner or operator of the 120-day time limit for submitting a written request for a hearing to the board. Not less than 50 days or more than 60 days after the board serves the notice of determination, the board shall serve on the owner or operator a second notice by certified mail advising the owner or operator of the deadline for requesting a hearing."

8. Page 11, line 6.

Strike: "30"

Insert: "120"

9. Page 11, line 9.

Strike: "30"

Insert: "120"

10. Page 12, line 18.

Strike: "(1)"

11. Page 12, line 20 through line 21.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

SB 102, do pass. Report adopted.

SB 107, introduced bill, be amended as follows:

1. Page 1, line 13.

Following: "school."

Insert: "(1)"

2. Page 1, line 14.

Strike: "(1)"

Insert: "(a)"

Following: "personnel"

Insert: ", including public employees and private contractors,"

3. Page 1, line 16.

Strike: "(2)"

Insert: "(b)"

4. Page 1, line 17.

Strike: "(3)"

Insert: "(c)"

5. Page 1, line 18.

Strike: "(4)"

Insert: "(d)"

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

6. Page 1, line 19.

Strike: "(5)"

Insert: "(e)"

7. Page 1.

Following: line 19

Insert: "(2) Unless included in a specific general fund appropriation from the legislature, general fund money may not be used for specific training on mechanized equipment for fuels mitigation and fire suppression provided for in subsection (1)(a).

(3) Nothing in subsection (1)(a) requires the fire services training school to purchase mechanized equipment for training purposes."

And, as amended, do pass. Report adopted.

SB 143, do pass. Report adopted.

SB 201, introduced bill, be amended as follows:

1. Title, line 8.

Strike: "AN"

Insert: "A RETROACTIVE"

2. Page 44, line 25.

Strike: "Applicability"

Insert: "Retroactive applicability"

Following: "applies"

Insert: "retroactively, within the meaning of 1-2-109,"

Strike: "2009"

Insert: "2008"

And, as amended, do pass. Report adopted.

SB 206, do pass. Report adopted.

SB 246, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

2/3/2009

SB 83, do pass. Report adopted.

TAXATION (Essmann, Chairman):

2/3/2009

SB 198, introduced bill, be amended as follows:

1. Page 6, line 13.

Following: the second "gas"

Insert: ", with the use of natural gas or other fuels allowed for ignition and to stabilize boiler operations"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/2/2009

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

HB 55, introduced by Hawk
HB 98, introduced by Dick Barrett
HB 109, introduced by Hunter
HB 114, introduced by Henry
HB 193, introduced by Augare
HB 195, introduced by Hamilton
HB 283, introduced by Himmelberger

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 343, introduced by Jackson, Ankney, Bales, B. Beck, Belcourt, Bennett, Black, Blasdel, Calf Boss Ribs, Brenden, D. Brown, Brueggeman, Butcher, Driscoll, Glaser, Hinkle, Ingraham, MacLaren, Nooney, Pease-Lopez, Pomnichowski, Regier, Reichner, Roberts, Taylor, Wanzenried, Zinke, referred to Agriculture, Livestock and Irrigation.
SB 344, introduced by J. Peterson, Bales, Balyeat, Debby Barrett, Brenden, T. Brown, Brueggeman, Gebhardt, Lewis, Ripley, Stahl, Steinbeisser, Tutvedt, referred to Fish and Game.
SB 345, introduced by Tutvedt, referred to Local Government.
SB 346, introduced by Laible, referred to Judiciary.
SB 347, introduced by Laible, referred to Highways.
SB 348, introduced by Essmann, Mendenhall, Williams, Wilmer, referred to Judiciary.
SB 349, introduced by Tutvedt, referred to Judiciary.
SB 350, introduced by Gillan, referred to Public Health, Welfare and Safety.
SB 351, introduced by Essmann, Augare, Reichner, J. Tropila, referred to Business, Labor, and Economic Affairs.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 19, introduced by J. Peterson, Bales, Debby Barrett, Brenden, T. Brown, Brueggeman, Gebhardt, Lewis, Ripley, Stahl, Steinbeisser, Zinke, referred to Fish and Game.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Wanzenried in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 90 - Senator Jackson moved **SB 90** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 185 - Senator Balyeat moved **SB 185** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 48

Nays: McGee, Zinke.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 208 - Senator Lewis moved **SB 208** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Barkus, Esp, Hinkle.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 222 - Senator Hansen moved **SB 222** do pass. Motion carried as follows:

Yeas: Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 224 - Senator R. Brown moved **SB 224** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.

Total 32

Nays: Branae, Erickson, Gallus, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 253 - Senator Steinbeisser moved **SB 253** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 21

Nays: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 253 - Senator J. Peterson moved **SB 253** be **indefinitely postponed**. Motion carried as follows:

Yeas: Barrett, Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 36

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

Nays: Bales, Balyeat, Barkus, Brenden, T. Brown, Curtiss, Gallus, Hinkle, Jackson, McGee, Perry, Shockley, Steinbeisser, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 275 - Senator Squires moved **SB 275** do pass. Motion carried as follows:

Yeas: Bales, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 31

Nays: Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Peterson, Ripley, Steinbeisser, Zinke, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 3 - Senator Laible moved **SJR 3** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 40

Nays: Balyeat, Esp, Gebhardt, Hinkle, Jackson, McGee, Steinbeisser, Tutvedt.

Total 8

Absent or not voting: Gallus, Jent.

Total 2

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Wanzenried moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Sen. Bales moved to re-refer SB 224 to Finance and Claims. Motion carried.

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 18 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 113 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Hinkle, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 202 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Curtiss, Esp, Steinbeisser.
Total 4

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 214 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 46

Nays: Kaufmann, Shockley, Windy Boy.
Total 3

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 247 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, R. Brown, Esp, Keane, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 252 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Curtiss.
Total 1

SENATE JOURNAL
TWENTY-FIFTH LEGISLATIVE DAY - FEBRUARY 3, 2009

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SJR 11 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Balyeat, Curtiss, Esp, Essmann, Hinkle, Shockley, Tutvedt.
Total 7

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, February 4, 2009. Motion carried.

Senate adjourned at 2:33 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
February 4, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gallus, Gillan, and Jent, excused. Quorum present.

Senator Gallus and Senator Gillan present.

BILLS AND JOURNALS:

2/4/2009

Correctly printed: **SB 83, SB 90, SB 102, SB 143, SB 185, SB 206, SB 208, SB 222, SB 224, SB 246, SB 261, SB 275, SB 343, SB 344, SB 345, SB 346, SB 347, SB 348, SB 349, SB 350, SB 351, SJR 3, SJR 19.**

Correctly engrossed: **SB 97, SB 107, SB 198, SB 201, SB 242, SB 255, SJR 16.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the twelfth, thirteenth, fourteenth, and fifteenth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

FISH AND GAME (Barkus, Chairman):

2/4/2009

SB 162, introduced bill, be amended as follows:

1. Page 2, line 4.

Following: "unless"

Insert: "the herd population in that district for that species falls below 50% of the objective level determined according to 87-1-323(1) or"

2. Page 2, line 5.

Strike: "an average of"

Strike: "3"

Strike: "calendar years"

Insert: "regular season"

And, as amended, do pass. Report adopted.

SB 228, introduced bill, be amended as follows:

1. Title, page 1, line 7 through line 8.

Following: "PERMITS" on line 7

Insert: "MAY BE"

Strike: "ARE GOOD UNTIL FILLED" on line 8

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

2. Page 2, line 18 through line 19.

Strike: "A landowner" on line 18 through "filled." on line 19

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

2/4/2009

SB 268, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/3/2009

HB 197, introduced by Ebinger

HB 263, introduced by Smith

HB 264, introduced by Smith

HB 326, introduced by Mendenhall

HB 371, introduced by Cohenour

Senate bills concurred in and returned to the Senate:

2/3/2009

SB 7, introduced by Gebhardt

SB 10, introduced by Perry

SB 11, introduced by J. Peterson

MOTIONS

Senator Shockley moved **SB 348** be moved from the Judiciary committee to the State Administration committee.
Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 352, introduced by Brueggeman, referred to Local Government.

SB 353, introduced by Black, referred to Taxation.

SB 354, introduced by Lewis, referred to Local Government.

SB 355, introduced by Moss, referred to Energy and Telecommunications.

SB 356, introduced by Zinke, referred to Business, Labor, and Economic Affairs.

SB 357, introduced by Moss, referred to Public Health, Welfare and Safety.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

THIRD READING OF BILLS

Brueggeman excused.

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

SB 90 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brueggeman, Jent.

Total 2

SB 184 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 45

Nays: Esp, Kaufmann, Keane, Windy Boy.

Total 4

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Brueggeman present.

SB 185 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 47

Nays: McGee, Zinke.

Total 2

Absent or not voting: None.

Total 0

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

Excused: Jent.
Total 1

SB 197 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Esp, Stewart-Peregoy.
Total 2

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 208 passed as follows:

Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 41

Nays: Bales, Balyeat, Barkus, Esp, Essmann, Hinkle, Steinbeisser, Mr. President.
Total 8

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 222 passed as follows:

Yeas: Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 22

Paired: Jent, Aye; Essmann, No.

Absent or not voting: None.
Total 0

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

Excused: None.
Total 0

SB 275 passed as follows:

Yeas: Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 34

Nays: Bales, Balyeat, Barkus, Black, Brenden, Curtiss, Esp, Gebhardt, Jackson, Laible, McGee, Perry, Ripley, Steinbeisser, Zinke, Mr. President.
Total 16

Paired: Jent, Aye; Barkus, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 3 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Balyeat, Esp, Hinkle, Jackson, McGee, Steinbeisser, Tutvedt.
Total 7

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tutvedt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 237 - Senator Lewis moved **SB 237** do pass.

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried.

Senator Peterson moved that the Senate recess and proceed to the House of Representatives for the Chief Justice's State of the Judiciary address. Upon adjournment of the joint session, the Senate will resume. Motion carried.

After the Senate was introduced in the House chambers, President Story assumed the chair. Senator Peterson moved that the body resolve itself into a joint session for the purpose of receiving the State of the Judiciary address from the Honorable Mike McGrath, Chief Justice of the Montana Supreme Court. Motion carried.

Senator Peterson moved that the President be authorized to appoint a committee of four to notify the Chief Justice that the House and Senate are in joint session and ready to receive the State of the Judiciary address. Motion carried.

President Story appointed Senator Perry, Senator Wanzenried, Representative Ingraham, and Representative Hollenbaugh, and the committee escorted the honored guests, Justices, and the Honorable Mike McGrath into the chambers. Chief Justice McGrath delivered the following address:

Mr. Speaker. Mr. President. Members of the Court. Honored Guests. Members of this Joint Assembly.

Thank you for giving me this opportunity. It is indeed an honor to be here speaking on behalf of Montana's Judiciary. It is very gracious of you, and appropriate I might add, to provide this opportunity to both the Executive and Judicial branches of Montana's government.

So what is so special about the Judiciary? What do these courts do?

The citizens of this state come to the courthouse when they are in crises:

The rancher who can't irrigate because of a water dispute;

The man injured through no fault of his own who cannot work and cannot pay his mortgage, buy groceries for his family, or pay his medical bills;

The defendant wrongfully accused;

The mother who needs child support to buy diapers and formula;

The victim of a crime seeking justice;

The father whose child is wrongfully being withheld from him;

The business owner who has put a second mortgage on her house to stay in business and is now being sued;

The child crying in the crib after being abused and neglected by a parent.

All of these people come to the court because their lives are in crisis and cannot resume until this crisis is resolved. And they come because they know they have rights. They know that there are laws that will protect them. They know that all they have to do is tell the judge their story and the crisis will be over. And they know they will be treated fairly, by an independent judge—not a person beholden to money interests or partisanship or social status. Rather a judge who will listen to their grievance and make a decision based on the merits of each individual case. Alexander Hamilton said that the "ordinary administration of criminal and civil justice . . . contributes more than any other circumstance" to the public support of a system of government.

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

What our founders knew was that if this republic they had created was going to succeed, it had to be based upon the rule of law, and that rule of law requires an independent and impartial manner of resolving disputes—be they commercial matters, family crises, criminal charges or removal of public officers.

And the system works!

Ted Olson served as the U.S. Solicitor General in a Republican administration. His wife was killed on 9/11. Recently he wrote:

Every day, thousands and thousands of judges—jurists whose names we never hear, from our highest court to our most local tribunal—resolve controversies, render justice, and help keep the peace by providing a safe, reliable, efficient and honest dispute resolution process. The pay is modest, the work is frequently quite challenging, and the outcome often controversial. For every winner in these cases, there is a loser. Many disputes are close calls, and the judge's decision is bound to be unpopular with someone. But in this country we accept the decisions of judges, even when we disagree on the merits, because the process itself is vastly more important than any individual decision. Our courts are essential to an orderly, lawful society. And a robust and productive economy depends upon a consistent, predictable, evenhanded, and respected rule of law. . . . Americans understand that no system is perfect and no judge immune from error, but also that our society would crumble if we did not respect the judicial process.

So I thank you for recognizing the importance of the Judicial branch of our government and I thank you, again, for the opportunity to speak for the Judiciary.

Our legislative proposals this session are modest—but significant. By the way, the Judicial branch, the court system for all Montanans, spends less than 1% of the entire state's budget.

We hear a lot these days about access to justice. If citizens cannot get their cases heard; if businesses don't have a way to resolve commercial disputes quickly; if the middle class can no longer afford to hire an attorney; if the poor have no redress for grievances; or if the system has become so complicated that only specialized attorneys can navigate the complexities, then they all are being denied access to justice. Moreover, the old adage is true: justice delayed is justice denied.

Our budget proposes to add some judges in highly overcrowded courts in some of our growing communities.

We propose to reduce an extremely heavy workload at the Montana Supreme Court by bringing in a mediator to help settle cases that ought to be settled.

We propose to assist individual Montana citizens with court service areas, places where you can get proper forms and assistance with the court process without unnecessary expense. Not all legal matters need attorneys. There are many ways we can simplify the process and provide people with helpful solutions.

Now we recognize that with judicial independence comes the corresponding responsibility, to be accountable:

Accountable to the people we serve;

Accountable to the Legislature, especially as to how we spend public funds; and

Accountable to the rule of law by virtue of the responsibilities we have to our Constitution and Montana statute.

In an effort to be more accountable, the Judicial branch has undertaken a series of performance measures. At the Supreme Court, a number of case processing measures have been identified.

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

The Court is very much aware of concerns about backlogged cases. Significant improvements have been made in the last few months, and now only a few cases have been sitting for more than a year. We hope to adopt other efficiencies in the near future, while at the same time upholding our duty to the litigants to do a quality job.

In the District Courts, performance standards are now being developed. Surveys of court users are completed and formulas have been adopted to accurately measure case loads and case timeliness.

Finally, let me say that there are a number of things we, the Judiciary, can do to prevent future expenditures of precious state funds.

Drug courts and Treatment courts in general can and do save taxpayer dollars. And last session, Legislators had the foresight to fund this program for the first time.

Two years ago 50% of the children in foster care were there because of their parents' use of drugs—methamphetamine in particular.

An incredibly high percentage—up to 90%—of prison inmates (both male and female) are incarcerated with chemical dependency problems—as many as half, or more, for meth. And, of course, many of our prisoners have severe mental illness problems.

All of these social problems cause a tremendous drain on state and local government budgets. Treatment courts divert some of these people to less expensive and more effective alternatives. They can keep kids out of Pine Hills or even more expensive out-of-state placements.

Treating mental illness in a community can prevent tragedies like the recent episode in Glasgow.

Drug courts do reunite shattered families.

Recently I attended a graduation ceremony at a family Drug court in Butte. One young woman had six children, all now out of foster care. She had a job and was a productive member of society and back together with her kids. Many of our judges in Montana are committed to addressing these problems in their communities—problems they see every day. Treatment courts are a strain on judges' time and energy. However, they are very rewarding as well. They do see good things happen in a courtroom—not a common occurrence in our courts.

Nationally, it has been proven that Treatment courts are by far the most effective thing we can do to address drug abuse and the problems that go with it. And thanks to you, last session, for providing some funding for these important programs. I hope they will be able to continue.

We believe our proposals will help to ensure that the small business owner, the man injured through no fault of his own, the mom, the defendant wrongly accused, and the child crying in the crib get their opportunity to resolve their crises.

While I have been Chief Justice for only a short period of time, I have enjoyed the experience immensely. I thank the people of Montana for giving me this opportunity.

Thank you again for inviting me to speak with you today.

I know all of you have a lot to do in the next 64 days!

Good luck this Session!

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

Upon adjournment of the joint session, the Senate reconvened.

Roll Call. All members present except Senator Jent, excused. Quorum present.

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tutvedt in the chair.

Motion that **SB 237** do pass carried as follows:

Yeas: Balyeat, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 25

Nays: Bales, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Keane, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Tutvedt moved the Committee of the Whole report be adopted. Motion carried as follows:

Yeas: Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Gallus, Hinkle, Jackson, Keane, McGee, Murphy, Perry, Shockley, Windy Boy.

Total 17

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SENATE JOURNAL
TWENTY-SIXTH LEGISLATIVE DAY - FEBRUARY 4, 2009

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, February 5, 2009. Motion carried.

Senate adjourned at 3:04 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
February 5, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

2/5/2009

Correctly printed: **SB 237, SB 268, SB 352, SB 353, SB 354, SB 355, SB 356, SB 357.**

Correctly engrossed: **SB 168, SB 228.**

Correctly enrolled: **SB 7, SB 10, SB 11.**

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Gebhardt, Chairman):

2/4/2009

SB 193, do pass. Report adopted.

SB 297, introduced bill, be amended as follows:

1. Title, page 1, line 5 through line 6.

Strike: "ESTABLISHING" on line 5 through "ACCOUNT" on line 6

Insert: "ALLOWING THE MONTANA BUREAU OF MINES AND GEOLOGY TO ACCEPT GIFTS, GRANTS, AND REIMBURSEMENTS"

2. Page 1, line 18 through line 19.

Strike: "the balance" on line 18 through "cost of" on line 19

Insert: "it has sufficient funds to conduct "

3. Page 1, line 26 through page 2, line 1.

Strike: section 2 in its entirety

Insert: "NEW SECTION. **Section 2. Authority to accept gifts, grants, and reimbursements.** The Montana bureau of mines and geology may accept gifts, grants, and reimbursements to be used for the purposes of [section 1]."

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/5/2009

SB 243, do pass. Report adopted.

SB 276, do pass. Report adopted.

MOTIONS

Senator Wanzenried moved that **SB 210** be taken from the table in Taxation by no later than Monday, February 9, printed and placed on second reading. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 22

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 5, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Senator Shockley moved that **SB 331** be moved from Judiciary to State Administration. Senator Shockley withdrew his motion.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/4/2009

HB 41, introduced by Cohenour

HB 104, introduced by French

HB 157, introduced by Hunter

HB 207, introduced by Klock

HB 214, introduced by MacDonald

House joint resolution passed and transmitted to the Senate for concurrence: 2/4/2009

HJR 8, introduced by Kasten

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 358, introduced by Windy Boy, referred to State Administration.

SB 359, introduced by Windy Boy, referred to Fish and Game.

SB 360, introduced by Keane, Glaser, Hiner, Jones, J. Peterson, Windy Boy, referred to Natural Resources.

SB 361, introduced by Ripley, Miller, referred to Taxation.

SB 362, introduced by Ripley, Lake, referred to Taxation.

SB 363, introduced by Stewart-Peregoy, Juneau, referred to Business, Labor, and Economic Affairs.

SB 364, introduced by Brueggeman, referred to Judiciary.

SB 365, introduced by Brueggeman, Taylor, referred to Local Government.

SB 366, introduced by Brueggeman, referred to Highways and Transportation.

SB 367, introduced by Hamlett, Zinke, referred to State Administration.

SB 368, introduced by Erickson, McAlpin, Wanzenried, referred to Judiciary.

SB 369, introduced by Esp, referred to Local Government.

SB 370, introduced by Perry, Cohenour, Larsen, Pomnichowski, Tutvedt, referred to Natural Resources.

SB 371, introduced by Perry, referred to Business, Labor, and Economic Affairs.

SB 372, introduced by Perry, referred to Business, Labor, and Economic Affairs.

SB 373, introduced by Perry, referred to Business, Labor, and Economic Affairs.

SB 374, introduced by Perry, referred to Judiciary.

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 5, 2009

SB 375, introduced by J. Peterson, referred to Business, Labor, and Economic Affairs.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Zinke in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 64 - Senator Laible moved **SB 64** do pass. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Curtiss, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Erickson, Esp, Essmann, Gebhardt, Hinkle, Jackson, Kaufmann, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 64 - Senator J. Peterson moved **SB 64** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Erickson, Esp, Essmann, Gebhardt, Hawks, Hinkle, Jackson, Jent, Kaufmann, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 29

Nays: Branae, Brueggeman, Cooney, Gallus, Gillan, Hamlett, Hansen, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 20

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 262 - Senator Wanzenried moved **SB 262** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke,

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 5, 2009

Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 188 - Senator Balyeat moved **SB 188** do pass.

Senator Balyeat moved **SB 188**, second reading copy, be amended as follows:

1. Title, page 1, line 9.
Strike: "A DELAYED"
Insert: "AN IMMEDIATE"

2. Page 2, line 5.
Strike: "March 1, 2010"
Insert: "on passage and approval"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 188 - Senator Balyeat moved **SB 188**, as amended, do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Zinke.
Total 39

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 5, 2009

Nays: Bales, Branae, Brueggeman, Erickson, Esp, Juneau, Kaufmann, Stewart-Peregoy, Williams, Mr. President.
Total 10

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 227 - Senator R. Brown moved **SB 227** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 249 - Senator Curtiss moved **SB 249** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Nays: Branae, R. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 23

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

Senator Peterson moved that **SB 63** and **SB 97** pass consideration for the day. Without objection, so ordered.

SB 187 - Senator Balyeat moved **SB 187** do pass. Motion carried as follows:

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 5, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 22

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 187** will progress to third reading.

SB 240 - Senator Brenden moved **SB 240** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 21

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Zinke moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 237 failed as follows:

Yeas: Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 25

SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 5, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Mr. President.

Total 25

Paired: Laslovich, Aye; Windy Boy, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 237 - Senator Murphy moved **SB 237** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Mr. President.

Total 25

Nays: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 24

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

MOTIONS

Senator Bales moved that **SB 63** be re-referred to Senate Finance and Claims. Motion carried.

Shockley moved that **SB 331** be moved from Judiciary to State Administration. Motion carried.

Senator Barkus moved that the vote for Senator Brenden be changed from yes to no, and the vote for Senator Erickson be changed from no to yes for the do pass motion for **SB 237**. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, February 6, 2009. Motion carried.

Senate adjourned at 2:59 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
February 6, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Debby Barrett and Juneau, excused. Quorum present.

Senator Juneau present.

BILLS AND JOURNALS:

2/6/2009

Correctly printed: **SB 187, SB 193, SB 227, SB 240, SB 243, SB 249, SB 262, SB 276, SB 358, SB 359, SB 360, SB 361, SB 362, SB 363, SB 364, SB 365, SB 366, SB 367, SB 368, SB 369, SB 370, SB 371, SB 372, SB 373, SB 374, SB 375.**

Correctly engrossed: **SB 188, SB 297.**

Signed by the Speaker at 8:30 a.m., February 6, 2009: **SB 7, SB 10, SB 11.**

Delivered to the Governor for approval at 9:55 a.m., February 6, 2009: **SB 7, SB 10, SB 11.**

Signed by the President at 3:30 p.m., February 5, 2009: **SB 7, SB 10, SB 11.**

Signed by the Secretary of the Senate at 3:20 p.m., February 5, 2009: **SB 7, SB 10, SB 11.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

2/6/2009

SB 204, introduced bill, be amended as follows:

1. Page 1, line 21.

Following: "traditions"

Insert: ", through issuance of a certificate designating a qualified property as a centennial farm or ranch"

2. Page 1, line 26.

Strike: "recognition"

Insert: "a centennial farm or ranch designation and a certificate"

3. Page 1, line 29.

Following: "society"

Insert: "to cover the application process and the certificate"

And, as amended, do pass. Report adopted.

SB 289, do pass. Report adopted.

SJR 17, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/5/2009

HB 44, introduced by Vincent

HB 123, introduced by Jones

HB 139, introduced by Vincent

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 6, 2009

HB 153, introduced by Hands

House joint resolution passed and transmitted to the Senate for concurrence:

2/5/2009

HJR 1, introduced by French

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 376, introduced by Black, Ankney, Gillan, Jones, Keane, Mendenhall, referred to Energy and Telecommunications.

SB 377, introduced by Perry, referred to Taxation.

SB 378, introduced by Perry, referred to Business, Labor, and Economic Affairs.

SB 379, introduced by Perry, referred to Judiciary.

SB 380, introduced by Shockley, referred to Judiciary.

SB 381, introduced by Shockley, referred to Judiciary.

SB 382, introduced by Shockley, referred to Judiciary.

SB 383, introduced by Laslovich, referred to Highways and Transportation.

SB 384, introduced by Jent, referred to Judiciary.

SB 385, introduced by Story, referred to Highways and Transportation.

SB 386, introduced by Story, referred to Highways and Transportation.

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 3, introduced by Brueggeman, referred to Highways and Transportation.

SR 4, introduced by Laible, referred to Education and Cultural Resources.

SR 5, introduced by Laible, referred to Education and Cultural Resources.

SR 6, introduced by Laible, referred to Education and Cultural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Windy Boy in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 97 - Senator Wanzenried moved **SB 97** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 6, 2009

Absent or not voting: None.
Total 0

Excused: Barrett.
Total 1

SB 57 - Senator Gillan moved **SB 57** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barrett.
Total 1

SB 107 - Senator Lewis moved **SB 107** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barrett.
Total 1

SB 132 - Senator Moss moved **SB 132** do pass. Motion carried as follows:

Yeas: Bales, Black, Branae, R. Brown, T. Brown, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 39

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 6, 2009

Nays: Balyeat, Barkus, Brenden, Brueggeman, Curtiss, Hinkle, Jackson, McGee, Ripley, Shockley.
Total 10

Absent or not voting: None.
Total 0

Excused: Barrett.
Total 1

SB 143 - Senator Laible moved **SB 143** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Gallus, Hinkle, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Barrett.
Total 1

SB 157 - Senator Shockley moved **SB 157** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barrett.
Total 1

SB 198 - Senator Lewis moved **SB 198** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 6, 2009

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barrett.

Total 1

SB 235 - Senator Murphy moved **SB 235** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Erickson, Hamlett, Hawks, Jent, Laslovich, Moss, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: Barrett.

Total 1

SB 246 - Senator Perry moved **SB 246** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke.

Total 38

Nays: Bales, Brenden, Cooney, Esp, Kaufmann, Moss, Murphy, Squires, Wanzenried, Williams, Mr. President.

Total 11

Absent or not voting: None.

Total 0

Excused: Barrett.

Total 1

SB 255 - Senator Tutvedt moved **SB 255** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 6, 2009

Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 48

Nays: Zinke.

Total 1

Absent or not voting: None.

Total 0

Excused: Barrett.

Total 1

SJR 16 - Senator R. Brown moved **SJR 16** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barrett.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Windy Boy moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 187 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 6, 2009

Paired: Barrett, Aye; Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 227 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barrett.
Total 1

SB 240 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Paired: Barrett, Aye; Keane, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 249 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 6, 2009

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Paired: Barrett, Aye; Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 262 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barrett.
Total 1

MOTIONS

Senator Zinke moved to change his vote on **SB 187** from no to yes. Sen. Juneau objected. President Story ruled he would not allow Senator Zinke to change his vote.

Senator Cooney moved to reconsider action taken on **SB 187** on third reading.

Yeas: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Branae, Juneau, Kaufmann, Moss, Squires, Stewart-Peregoy, M. Tropila, Wanzenried.
Total 8

Absent or not voting: None.
Total 0

SENATE JOURNAL
TWENTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 6, 2009

Excused: Barrett.
Total 1

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 187 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Paired: Barrett, Aye; Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 187** will progress as though it had received the majority vote.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Saturday, February 7, 2009. Motion carried. Senate adjourned at 2:47 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-NINTH LEGISLATIVE DAY**

Helena, Montana
February 7, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Murphy, excused. Quorum present.

BILLS AND JOURNALS:

2/7/2009

Correctly printed: **SB 57, SB 97, SB 107, SB 132, SB 143, SB 157, SB 198, SB 235, SB 246, SB 255, SB 289, SB 376, SB 377, SB 378, SB 379, SB 380, SB 381, SB 382, SB 383, SB 384, SB 385, SB 386, SR 3, SR 4, SR 5, SR 6, SJ 16, SJ 17.**

Correctly engrossed: **SB 204.**

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman):

2/6/2009

SB 281, introduced bill, be amended as follows:

1. Title, line 5.

Following: "46-9-401,"

Strike: "AND"

Following: "61-5-214,"

Insert: "AND 61-5-218,"

2. Page 2, line 22.

Following: "misdemeanor"

Strike: "or a felony"

Following: "under"

Strike: "the Montana Code Annotated"

Insert: "Title 45, Title 61, chapters 3 through 10, or Title 87"

3. Page 3, line 15.

Following: "by"

Strike: "first-class"

Insert: "certified"

4. Page 3, line 23.

Following: line 22

Insert: "**Section 4.** Section 61-5-218, MCA, is amended to read:

"61-5-218. License reinstatement fee following license suspension or revocation. (1) Except as provided in subsection (2), a person whose driver's license, other than a commercial driver's license, or driving privilege has been suspended or revoked shall pay a reinstatement fee of \$100 to the department to have the driver's license or driving privilege reinstated.

(2) (a) A person whose driver's license or driving privilege was suspended or revoked under 61-5-205 or 61-8-402 shall pay a reinstatement fee as required by 61-2-107.

(b) A driver's license or driving privilege that was suspended or revoked under 61-5-207 must be reinstated without payment of a reinstatement fee.

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

(c) The reinstatement fee required under subsection (1) must be waived by the department when a court notifies the department that the person has satisfied the requirements of 61-5-214(2) and the court has determined that the person is indigent under the standards set forth in 47-1-111.

(3) The department shall deposit the fees collected under subsection (1) in the general fund.""

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 311, do pass. Report adopted.

SB 340, do pass. Report adopted.

SB 341, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/7/2009

SB 309, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/6/2009

HB 95, introduced by Hawk

HB 363, introduced by Jones

House joint resolution passed and transmitted to the Senate for concurrence:

2/6/2009

HJR 12, introduced by Steenson

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 387, introduced by Bales, referred to Energy and Telecommunications.

SB 388, introduced by Gillan, Arntzen, P. Beck, Becker, Branae, Erickson, Fleming, French, Furey, Getz, Gillan, Grinde, Hamlett, Hansen, MacDonald, McChesney, Pomnichowski, Schmidt, Steenson, Stewart-Peregoy, M. Tropila, Van Dyk, Wanzenried, referred to Business, Labor, and Economic Affairs.

SB 389, introduced by Squires, referred to Business, Labor, and Economic Affairs.

SB 390, introduced by McGee, Ripley, referred to Local Government.

SB 391, introduced by Brueggeman, referred to State Administration.

SB 392, introduced by Brueggeman, referred to Local Government.

SB 393, introduced by Steinbeisser, referred to Business, Labor, and Economic Affairs.

SB 394, introduced by Bales, referred to State Administration.

SB 395, introduced by Gebhardt, referred to Business, Labor, and Economic Affairs.

SB 396, introduced by Story, referred to Natural Resources.

SB 397, introduced by Gillan, Augare, Grinde, referred to Business, Labor, and Economic Affairs.

SB 398, introduced by Zinke, Steinbeisser, referred to Business, Labor, and Economic Affairs.

SB 399, introduced by Laslovich, referred to Public Health, Welfare and Safety.

SB 400, introduced by Laslovich, referred to Judiciary.

SB 401, introduced by Laslovich, referred to Public Health, Welfare and Safety.

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 20, introduced by Story, Bergren, Campbell, J. Peterson, Sales, Williams, referred to Agriculture, Livestock and Irrigation.

SJR 21, introduced by Curtiss, Bennett, Hinkle, Jackson, Laible, McGee, Ripley, referred to Agriculture, Livestock and Irrigation.

SJR 22, introduced by Zinke, referred to State Administration.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 7, introduced by Steinbeisser, referred to Agriculture, Livestock and Irrigation.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 57 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Murphy.

Total 1

SB 97 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Murphy.

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

Total 1

SB 107 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Murphy.

Total 1

SB 132 passed as follows:

Yeas: Barrett, Black, Branae, R. Brown, T. Brown, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Bales, Balyeat, Barkus, Brenden, Brueggeman, Curtiss, Hinkle, Jackson, McGee, Perry, Ripley.

Total 11

Absent or not voting: None.

Total 0

Excused: Murphy.

Total 1

SB 143 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Hinkle.

Total 1

Absent or not voting: None.

Total 0

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

Excused: Murphy.
Total 1

SB 157 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Murphy.
Total 1

SB 188 passed as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Zinke.
Total 35

Nays: Bales, Branae, Brueggeman, Cooney, Erickson, Esp, Juneau, Kaufmann, Moss, Squires, Wanzenried, Williams, Windy Boy, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: Murphy.
Total 1

SB 198 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

Total 0

Excused: Murphy.

Total 1

SB 235 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 40

Nays: Erickson, Hawks, Jent, Moss, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.

Total 9

Absent or not voting: None.

Total 0

Excused: Murphy.

Total 1

SB 246 passed as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke.

Total 42

Nays: Bales, Brenden, Cooney, Moss, Squires, Wanzenried, Mr. President.

Total 7

Absent or not voting: None.

Total 0

Excused: Murphy.

Total 1

SB 255 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

Absent or not voting: None.
Total 0

Excused: Murphy.
Total 1

SJR 16 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Esp, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: Murphy.
Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hamlett in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 58 - Senator Gillan moved **SB 58** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Hinkle, McGee, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Murphy.
Total 1

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

SB 102 - Senator Brueggeman moved **SB 102** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Murphy.

Total 1

SB 193 - Senator McGee moved **SB 193** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Murphy.

Total 1

SB 201 - Senator Laslovich moved **SB 201** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

Excused: Murphy.
Total 1

Senator Shockley excused.

SB 206 - Senator Debby Barrett moved **SB 206** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 40

Nays: R. Brown, Cooney, Erickson, Essmann, Gillan, Juneau, Moss, Mr. President.
Total 8

Absent or not voting: None.
Total 0

Excused: Murphy, Shockley.
Total 2

SB 228 - Senator Debby Barrett moved **SB 228** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 36

Nays: Erickson, Gallus, Gillan, Hawks, Juneau, Kaufmann, Moss, Squires, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 12

Absent or not voting: None.
Total 0

Excused: Murphy, Shockley.
Total 2

SB 261 - Senator Wanzenried moved **SB 261** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Bales, Barrett, Black, Brenden, Gebhardt, Hinkle, Laible, McGee, Perry, Ripley.
Total 10

Absent or not voting: None.

SENATE JOURNAL
TWENTY-NINTH LEGISLATIVE DAY - FEBRUARY 7, 2009

Total 0

Excused: Murphy, Shockley.
Total 2

SB 297 - Senator Larsen moved **SB 297** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Brenden, Hinkle.
Total 2

Absent or not voting: None.
Total 0

Excused: Murphy, Shockley.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Hamlett moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

Senator Brown thanked the Pages for their work during the week of February 2-7, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, February 9, 2009. Motion carried.

Senate adjourned at 9:34 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTIETH LEGISLATIVE DAY**

Helena, Montana
February 9, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Gallus, excused. Quorum present.

BILLS AND JOURNALS:

2/9/2009

Correctly printed: **SB 58, SB 102, SB 193, SB 201, SB 206, SB 228, SB 261, SB 297, SB 309, SB 311, SB 340, SB 341, SB 387, SB 388, SB 389, SB 390, SB 391, SB 392, SB 393, SB 394, SB 395, SB 396, SB 397, SB 398, SB 399, SB 400, SB 401, SJR 20, SJR 21, SJR 22, SR 7.**

Correctly engrossed: **SB 281.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

2/9/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, February 7, 2009:

TITLE

NAME

Pages:

Faith Grover, Helena
Taylor Billing, Jordon
Kari Rice, Helena
Charles French, Paradise
Brice Grotbo, Shelby
Morgan Boharski, Kalispell
Madison Brooke, Bozeman

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 9, 2009:

TITLE

NAME

Pages:

Jordan Marquis, Great Falls
Dylan Klapmeier, Forsyth
Madison Olson, Great Falls
Brenna Howard, Great Falls
Michael Steppler, Brockton
Kyndall Miller, Laurel
Kelsey Colbert, Missoula

Report Adopted.

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Gebhardt, Chairman):

2/3/2009

SB 95, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Following: "WATER;"

Insert: "ESTABLISHING A TIME LIMIT FOR TEMPORARY CRITERIA; REQUIRING A REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL;"

2. Page 6, line 7.

Following: "(4)"

Insert: "(a)"

3. Page 6.

Following: line 9

Insert: "(b) Temporary nutrient criteria may be established for a period not to exceed 20 years and must be reviewed by the department every 5 years from the date of adoption to ensure that the justification for their adoption is still valid.

(c) On or before July 1 of each even-numbered year, the department shall report to the environmental quality council the results of each review conducted in the previous 2-year period."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/7/2009

HB 150, introduced by D. Brown

HB 159, introduced by Augare

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 402, introduced by J. Peterson, Bales, Barkus, Bergren, Brenden, D. Brown, R. Brown, T. Brown, Campbell, Esp, Hansen, Hinkle, Hollandsworth, Jones, Keane, Kerns, Lake, McChesney, McGee, McNutt, Milburn, Sales, Shockley, Stoker, Story, Tutvedt, referred to Judiciary.

SB 403, introduced by Gebhardt, Lewis, Laslovich, A. Noonan, Klock, referred to Energy and Telecommunications.

SB 404, introduced by Brueggeman, Jent, Barkus, O'Hara, Sesso, B. Beck, Hollenbaugh, Jones, referred to Fish and Game.

SB 405, introduced by Moss, referred to Judiciary.

SB 406, introduced by McGee, referred to Judiciary.

SB 407, introduced by Ripley, Steinbeisser, Milburn, referred to Agriculture, Livestock and Irrigation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 23, introduced by Moss, referred to Education and Cultural Resources.

MOTIONS

Senator Gebhardt moved **SJR 21** be moved from the Agriculture, Livestock and Irrigation committee to the Natural Resources committee. Motion carried.

Senator Gallus present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hinkle in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 71 - Senator Erickson moved **SB 71** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 83 - Senator Laible moved **SB 83** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Juneau, Keane, Laible, Larsen, Lewis, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 35

Nays: Bales, Barrett, R. Brown, Erickson, Esp, Hamlett, Jent, Kaufmann, Laslovich, McGee, Perry, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 162 - Senator Debby Barrett moved **SB 162** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 204 - Senator Moss moved **SB 204** do pass. Motion carried as follows:

Yeas: Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 32

Nays: Bales, Balyeat, Barkus, Barrett, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Laible, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Tutvedt, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 242 - Senator Balyeat moved **SB 242** do pass.

Senator Peterson moved that **SB 242** be passed for the day. Motion carried.

SB 243 - Senator Balyeat moved **SB 243** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 25

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 243** will progress as though it had received the majority vote.

SB 276 - Senator Squires moved **SB 276** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss,

Murphy, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 35

Nays: Barkus, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Laible, McGee, Perry, Peterson, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Perry excused at this time.

SB 289 - Senator Jackson moved **SB 289** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Gebhardt, Hinkle, Jackson, Laslovich, Lewis, McGee, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Mr. President.
Total 22

Nays: Branae, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 27

Absent or not voting: None.
Total 0

Excused: Perry.
Total 1

Senator Perry present at this time.

SB 289 - Senator Williams moved **SB 289** be **indefinitely postponed**. Motion carried as follows:

Yeas: Branae, R. Brown, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, McGee, Moss, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Hinkle, Jackson, Laslovich, Lewis, Murphy, Perry, Ripley, Shockley, Steinbeisser.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 9 - Senator Wanzenried moved **SJR 9** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 17 - Senator Perry moved **SJR 17** do pass.

Senator Perry moved **SJR 17**, second reading copy, be amended as follows:

1. Page 1.

Following: line 29

Insert: "BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Montana Department of Transportation for its consideration and to the Montana League of Cities and Towns and the Montana Association of Counties for distribution to their members."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Barrett, Esp, Juneau, Keane, Laslovich, Tutvedt.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 17 - Senator Perry moved **SJR 17**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Esp, Juneau, Keane, Schmidt, Squires.

Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Hinkle moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 58 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Brenden, Hinkle, McGee, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 102 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 193 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau,

Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 201 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 206 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Zinke.
Total 39

Nays: R. Brown, Cooney, Erickson, Essmann, Juneau, Larsen, Moss, Schmidt, Williams, Windy Boy, Mr. President.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 228 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.

Total 35

Nays: Erickson, Gallus, Gillan, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 261 passed as follows:

Yeas: Barkus, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 36

Nays: Bales, Balyeat, Barrett, Black, Brenden, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Ripley, Shockley, Tutvedt.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 297 passed as follows:

Yeas: Bales, Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, Barrett, Brenden, Hinkle, McGee.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

2/9/2009

SB 269, introduced bill, be amended as follows:

1. Title, page 1, line 10.

Following: "37-53-205,"

Insert: "37-53-301, 37-53-302,"

2. Title, page 1, line 11.

Strike: "37-53-301, 37-53-302,"

3. Page 3.

Following: line 14

Insert: "(18) 'Timeshare salesperson' means a person who for a salary, commission, or compensation of any kind is associated with a timeshare development to sell, purchase, or negotiate for sale, purchase, lease, or exchange of the timeshare interests in real estate and who, on behalf of a developer, sells or offers to sell a timeshare to a purchaser."

Renumber: subsequent subsection

4. Page 3.

Following: line 28

Following: "(3) qualifications for applicants as provided in 37-53-301;

(4) continuing education requirements for renewal of a timeshare salesperson's license;"

Renumber: subsequent subsections

5. Page 6.

Following: line 7

Insert: "Section 7. Section 37-53-301, MCA, is amended to read:

"37-53-301. Licensure of ~~timeshare brokers and~~ timeshare salespersons -- licensee duties. (1) (a) A person offering timeshare ~~units for his own account or for the account of others~~ intervals in a project located in Montana must be licensed as a timeshare salesperson ~~or timeshare broker~~ and affiliated with at least one registered timeshare project unless the offering is exempt under 37-53-205.

(2) Licensure may be obtained upon:

~~(i)(a) upon completion of an application and personal disclosure statement and passage of an examination prescribed by the board demonstrating knowledge of the timeshare industry and this chapter;~~

~~(b) meeting the qualifications listed in subsection (3);~~

~~(c) demonstration to the board that the applicant is an individual of good repute and competent to transact the business of a timeshare salesperson in a manner that safeguards the interests of the public;~~

~~(d) payment of fees set by the department by rule; and~~

~~(ii)(e) upon successful completion of a course of education related to the timeshare industry that has been approved by the board.~~

~~(b) The board shall then issue a certificate of completion to the applicant.~~

~~(2) A person licensed as a real estate broker or salesperson under Title 37, chapter 51, may act as a timeshare salesperson or timeshare broker upon successful completion of a course of education related to the timeshare industry that has been approved by the board. The board shall then issue a certificate of completion to the applicant. No license other than that issued pursuant to Title 37, chapter 51, is required.~~

~~(3) An applicant for a timeshare salesperson license must:~~

~~(a) be at least 18 years of age; and~~

~~(b) have graduated from an accredited high school or completed equivalent education as determined by the board.~~

~~(4) The board shall issue a certificate of completion to an applicant who successfully completes the course of education provided for in subsection (1)(e) and may issue a license to an applicant meeting the qualifications and licensure provisions.~~

~~(5) A licensed timeshare salesperson shall notify the department of a change of affiliation within 10 days of the change, designate the new license affiliation, and pay all required fees.~~

~~(6) If a timeshare salesperson is no longer affiliated with a timeshare project, the timeshare salesperson shall notify the board that the license is inactive and pay the fees required by rule. A timeshare salesperson may reactivate an inactive license by filling out an application, listing a new affiliation, and paying all required fees."~~

"

Insert: "Section 8. Section 37-53-302, MCA, is amended to read:

"37-53-302. Denial, suspension, or revocation of license or application. The board may by an order deny, suspend, or revoke a timeshare salesperson's ~~or timeshare broker's~~ license or application for license if the board finds that the order is in the public interest and that the applicant or licensee:

(1) has filed an application for licensure ~~and personal disclosure statement~~ as a timeshare salesperson ~~or timeshare broker~~ that is incomplete ~~in any material respect~~ or contains any statement that is, ~~in the light of the circumstances under which it was made,~~ false or misleading ~~with respect to any material fact;~~

(2) has violated or failed to comply with any provision of ~~this chapter, rules adopted under this chapter,~~ or Title 37, ~~chapter~~ chapters 1, 51, and 53, or any rules adopted by the board if the violation or the failure to comply related to the timeshare business;

(3) has been convicted of a felony ~~involving theft, fraud, or any consumer protection statute or a felony involving moral turpitude and related to the occupation of timeshare salesperson or timeshare broker~~ unless the provisions of Title 37, chapter 1, part 2, are met;

(4) is permanently or temporarily enjoined by a court from engaging in or continuing any conduct or practice involving an aspect of the timeshare business;

(5) has engaged in dishonest or unethical practices related to public health, welfare, and safety in the timeshare business; or

(6) has not complied with any condition imposed by the board ~~or is not qualified on the basis of knowledge of the timeshare industry or this chapter."~~

Renumber: subsequent sections

6. Page 9, line 2 through line 3.

Strike: "37-53-301," on line 2 through "37-53-302," on line 3

And, as amended, do pass. Report adopted.

SB 308, do pass. Report adopted.

SJR 10, introduced joint resolution, be amended as follows:

1. Page 1.

Following: line 27

Insert: "(2) obtain workers' compensation coverage under Plan No. 2 insurers;"

Renumber: subsequent subsections

And, as amended, be adopted. Report adopted.

SPECIAL ORDERS OF THE DAY

Senator Barkus introduced the Senate Pages for the week of February 9-14, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, February 10, 2009. Motion carried.

Senate adjourned at 3:17 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-FIRST LEGISLATIVE DAY**

Helena, Montana
February 10, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Gallus, excused. Quorum present.

BILLS AND JOURNALS:

2/10/2009

Correctly printed: **SB 71, SB 83, SB 162, SB 204, SB 243, SB 276, SB 308, SB 402, SB 403, SB 404, SB 405, SB 406, SB 407, SJR 9, SJR 23.**

Correctly engrossed: **SB 95.**

Mr. President: We, your committee on Bills and Journals, having examined the daily journals for the sixteenth, seventeenth, eighteenth, and nineteenth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

2/10/2009

SB 142, do pass. Report adopted.

SB 287, introduced bill, be amended as follows:

1. Page 1, line 28 through page 2, line 1.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

2. Page 2, line 14.

Following: "acts."

Insert: "(1)"

3. Page 2, line 17.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections

4. Page 2.

Following: line 21

Insert: "(d) provides a conventional medical disease diagnosis; (e) directs or instructs a person to discontinue medical care or a medical treatment prescribed by a licensed health care provider;"

Renumber: subsequent subsections

5. Page 2, line 22.

Strike: "a chiropractic adjustment that uses"

Following: "low-amplitude"

Strike: "thrusting force"

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

Insert: "thrust to a joint"

6. Page 2, line 23 through line 26.

Strike: subsection (5) in its entirety

Insert: "(g) knowingly and purposely diagnoses and treats a physical or mental health condition of a client under circumstances or conditions that cause or create an imminent or discernible risk of significant bodily harm, serious physical or mental illness, or death; or"

Renumber: subsequent subsections

7. Page 2.

Following: line 28

Insert: "(2) For the purposes of subsection (1)(d), the following activities are not a diagnosis:

(a) the use of medical terminology or common words to advise a client to see a licensed, certified, or registered health care provider in order to rule out a diagnosable condition;

(b) a statement by an individual that symptoms may be indicative of or consistent with a specific medical condition; or (c) a statement by an individual that a client has a probability of significantly less than 100% of having a specific medical condition.

(3) The fact that an individual is providing unlicensed health care services is not evidence of an imminent or discernible risk of harm for the purposes of subsection (1)(g)."

8. Page 2, line 30.

Following: "client"

Insert: "-- exception"

9. Page 3, line 9.

Following: "qualifications"

Strike: ", if any,"

10. Page 3, line 11.

Following: "obtain"

Strike: "written"

Insert: "a signed"

11. Page 3, line 13.

Strike: "written"

Insert: "signed"

12. Page 3, line 14.

Strike: "written"

Insert: "signed"

Following: "years"

Insert: "after the last client contact"

13. Page 3.

Following: line 14

Insert: "(2) The statement required under subsection (1) must include the following language: "The State of Montana has not adopted any educational or training standards for individuals who provide unlicensed health care services. This disclosure is for informational purposes only. Under Montana law, an individual who provides unlicensed health care services may not provide a medical diagnosis or instruct or direct a person to discontinue a medically prescribed treatment. A client may seek at any time a medical diagnosis from a

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

licensed health care provider qualified to make a diagnosis."

Renumber: subsequent subsections

14. Page 3.

Following: line 20

Insert: "(5) Practitioners who are recognized within their community as traditional and cultural healers are exempt from the disclosure and acknowledgment requirements of this section."

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

2/10/2009

SB 216, introduced bill, be amended as follows:

1. Page 6, line 7.

Following: line 6

Insert: "(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment."

Renumber: subsequent subsections

2. Page 6, line 13.

Strike: "(12)(a)"

Insert: "(13)(a)"

3. Page 6, line 17.

Strike: "(13)(a)"

Insert: "(14)(a)"

And, as amended, do pass. Report adopted.

SB 273, do pass. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

2/10/2009

SB 73, introduced bill, be amended as follows:

1. Page 14, line 7.

Following: "or"

Insert: ", after January 1, 2011, the owner"

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

2/10/2009

SB 236, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

2/10/2009

SB 294, do pass. Report adopted.

SB 296, introduced bill, be amended as follows:

1. Title, line 5.

Strike: ", RESORT COMMUNITIES, AND THE STATE"

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

2. Title, line 7.

Following: "TO THE"

Insert: "CITY"

Strike: "AND RECORDER"

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "7-6-1504, AND 18-7-201,"

3. Page 1, line 21.

Following: "to the"

Insert: "city"

Strike: "and recorder"

4. Page 2, line 17 through page 4, line 21.

Strike: sections 2 and 3 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

2/10/2009

SB 120, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "ENTITIES"

Insert: "AND WATER RIGHT HOLDERS"

Strike: "PRIORITIZING"

Insert: "ALLOWING CONSIDERATION OF"

2. Page 11, line 3.

Following: "petition"

Insert: ":

(i)"

3. Page 11, line 4.

Following: "45"

Insert: "; or

(ii) signed by at least one-third of the water right holders in a proposed controlled ground water area"

4. Page 13, line 22 through line 23.

Strike: ", including" on line 22 through "activities," on line 23

5. Page 14, line 19.

Strike: "must be prioritized"

Insert: "may be considered"

6. Page 14, line 22.

Strike: "prioritize"

Insert: "consider"

7. Page 14, line 28.

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

Strike: "existing or"

8. Page 15, line 2.

Following: "designation"

Insert: "within 60 days"

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):
SB 174, introduced bill, be amended as follows:

2/10/2009

1. Page 6, line 3.

Strike: "consultation"

Insert: "concurrence"

2. Page 6, line 6.

Strike: "consultation"

Insert: "concurrence"

3. Page 7, line 13.

Strike: "consultation"

Insert: "concurrence"

And, as amended, do pass. Report adopted.

SB 325, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):
SB 124, do pass. Report adopted.
SB 299, introduced bill, be amended as follows:

2/10/2009

1. Page 2, line 13.

Following: "blue"

Insert: "or black"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/9/2009

HB 75, introduced by Van Dyk

HB 170, introduced by Menahan

HB 192, introduced by Taylor

HB 203, introduced by Miller

HB 223, introduced by Cohenour

House joint resolution passed and transmitted to the Senate for concurrence:

2/9/2009

HJR 7, introduced by Vincent

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 408, introduced by Wanzenried, referred to Business, Labor, and Economic Affairs.
SB 409, introduced by Brueggeman, referred to Highways and Transportation.
SB 410, introduced by Brueggeman, Keane, referred to Business, Labor, and Economic Affairs.
SB 411, introduced by Tutvedt, referred to Local Government.
SB 412, introduced by Kaufmann, referred to Public Health, Welfare and Safety.
SB 413, introduced by Kaufmann, referred to State Administration.
SB 414, introduced by Kaufmann, referred to Public Health, Welfare and Safety.
SB 415, introduced by Kaufmann, referred to Agriculture, Livestock and Irrigation.
SB 416, introduced by Laible, referred to Business, Labor, and Economic Affairs.
SB 417, introduced by Keane, Essmann, referred to Natural Resources.
SB 418, introduced by Branae, referred to Taxation.
SB 419, introduced by Jackson, referred to Taxation.
SB 420, introduced by Jackson, referred to Natural Resources.
SB 421, introduced by Jackson, referred to Natural Resources.
SB 422, introduced by Jackson, referred to Natural Resources.
SB 423, introduced by Jackson, referred to Local Government.
SB 424, introduced by Barkus, Ankney, Hands, Wanzenried, Zinke, referred to Energy and Telecommunications.
SB 425, introduced by Bales, Barkus, Jent, J. Tropila, referred to Fish and Game.
SB 426, introduced by Laslovich, referred to Natural Resources.
SB 427, introduced by Laslovich, referred to Natural Resources.
SB 428, introduced by Moss, referred to Judiciary.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 24, introduced by Hawks, referred to Energy and Telecommunications.
SJR 25, introduced by J. Peterson, Laible, Williams, referred to Education and Cultural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Black in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 242 - Senator Balyeat moved **SB 242** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 23

Nays: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 27

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 242 - Senator Williams moved **SB 242** be **indefinitely postponed**. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Gallus present.

SB 49 - Senator Wanzenried moved **SB 49** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Esp, Hinkle, Jackson, McGee, Steinbeisser.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 62 - Senator Laible moved **SB 62** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.
Total 39

Nays: Erickson, Juneau, Kaufmann, Larsen, Laslovich, Moss, Squires, Stewart-Peregoy, Wanzenried, Williams,

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

Windy Boy.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 268 - Senator R. Brown moved do pass.

SB 268 - Senator Tutvedt moved **SB 268**, second reading copy, be amended as follows:

1. Page 1, line 18.

Following: "transporting"

Insert: "processed or"

Following: "products"

Insert: "or inputs, including but not limited to fertilizer, manure, and pesticides"

Amendment adopted as follows:

, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Esp, Keane.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 268 - Senator R. Brown moved **SB 268**, as amended, do pass. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Esp, Gebhardt, Hansen, Hinkle, Jackson, Keane, Murphy, Perry, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Mr. President.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

SB 281 - Senator Shockley moved **SB 281** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Tutvedt, Williams, Zinke.
Total 35

Nays: Balyeat, Erickson, Esp, Gebhardt, Juneau, Kaufmann, Moss, Murphy, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 311 - Senator Gallus moved **SB 311** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Curtiss, Esp, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 340 - Senator Laslovich moved **SB 340** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: R. Brown, Juneau, Windy Boy.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

SB 341 - Senator Laslovich moved **SB 341** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Balyeat, R. Brown, Gebhardt, Hinkle, Jackson, Juneau, Kaufmann, Murphy, Stewart-Peregoy.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Black moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 71 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Tutvedt.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 83 passed as follows:

Yeas: Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Peterson, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 36

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

Nays: Bales, Barkus, R. Brown, Esp, Hinkle, Jent, Laslovich, McGee, Perry, Ripley, Squires, Steinbeisser, Tutvedt, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 162 failed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Mr. President.

Total 23

Nays: Branae, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 204 passed as follows:

Yeas: Bales, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 34

Nays: Balyeat, Barkus, Barrett, R. Brown, Esp, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Peterson, Ripley, Tutvedt, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 243 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Brueggeman, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 23

Nays: Black, Branae, T. Brown, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau,

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 243** will progress as though it had received the majority vote.

SB 276 passed as follows:

Yeas: Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 34

Nays: Bales, Barkus, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 9 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

SB 162 - Senator Jent moved **SB 162** be indefinitely postponed. Motion carried as follows:

SENATE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 10, 2009

Yeas: Branae, R. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Zinke, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, February 11, 2009. Motion carried.

Senate adjourned at 2:34 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-SECOND LEGISLATIVE DAY**

Helena, Montana
February 11, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

2/11/2009

Correctly printed: **SB 49, SB 62, SB 124, SB 142, SB 236, SB 273, SB 281, SB 294, SB 311, SB 325, SB 340, SB 341, SB 408, SB 409, SB 410, SB 411, SB 412, SB 413, SB 414, SB 415, SB 416, SB 417, SB 418, SB 419, SB 420, SB 421, SB 422, SB 423, SB 424, SB 425, SB 426, SB 427 SB 428, SJR 24, SJR 25.**

Correctly engrossed: **SB 73, SB 120, SB 174, SB 216, SB 268, SB 269, SB 287, SB 296, SB 299, SJR 10, SJR 17.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

2/11/2009

SB 167, introduced bill, be amended as follows:

1. Title, page 1, lines 4 and 5.

Strike: "CREATING" through "STARVATION;" on line 5

2. Title, page 1, line 5.

Following: the first "PROVIDING"

Insert: "INCREASED"

Following: "PENALTIES FOR"

Strike: "A CONVICTION" through "OF"

3. Title, page 1, line 6.

Following: "ABANDONMENT"

Strike: "OR" through "OFFENSE"

Strike: "81-4-502,"

Insert: "45-8-211,"

4. Page 1, line 9.

Strike: everything after the enacting clause

Insert: "**Section 1.** Section 45-8-211, MCA, is amended to read:

"45-8-211. Cruelty to animals -- exceptions. (1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

(a) overworking, beating, tormenting, torturing, injuring, or killing the animal;

(b) carrying or confining the animal in a cruel manner;

(c) failing to provide an animal in the person's custody with:

(i) food and water of sufficient quantity and quality to sustain the animal's normal health;

(ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;

(iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

(d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2) (a) ~~★~~ Except as provided in subsection (2)(d), a person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(d) If the offense involves the abandonment of a horse on public or private lands, the court may assess additional fines and penalties of up to \$1,000 and 6 months in jail.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; ~~and~~

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence; and

(d) for the willful act of equine abandonment, may order full restitution for all public and private costs incurred.

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods."

And, as amended, do pass. Report adopted.

SB 343, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "MONTANA"

Insert: "AQUATIC"

2. Title, page 1, line 7.

Following: "SPREAD OF"

Insert: "AQUATIC"

3. Title, page 1, line 9.

Strike: "VEHICLES AND"

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

Following: "VESSELS FOR"
Insert: "AQUATIC"

4. Title, page 1, line 10.
Following: "TRANSPORT OF"
Insert: "AQUATIC"

5. Page 1, line 16 through line 17.
Strike: line 16 through line 17

6. Page 1, line 18.
Strike: "two"
Strike: "known as"
Insert: "including Eurasian watermilfoil,"
Following: "quagga mussel"
Insert: ", "
Following: "and"
Insert: "the"
Strike: "a"

7. Page 1, line 19.
Strike: "threat"
Insert: "threats"

8. Page 1, line 30.
Following: "WHEREAS,"
Insert: "Eurasian watermilfoil,"
Following: "zebra mussel"
Insert: ", "
Following: "and"
Insert: "the"

9. Page 2, line 2.
Following: "WHEREAS,"
Insert: "Eurasian watermilfoil is already present in Montana and"

10. Page 2, line 4.
Following: "with an"
Insert: "aquatic"

11. Page 2, line 9.
Following: "Montana"
Insert: "Aquatic"

12. Page 2, line 15 through line 16.
Strike: subsection (b) in its entirety
Renumber: subsequent subsections

13. Page 2, line 17.
Following: "about the"

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

Insert: "further"

14. Page 2, line 17.

Following: "infestation of"

Insert: "Eurasian watermilfoil (*Myriophyllum spicatum*) and the introduction, importation, and infestation of"

15. Page 2, line 28.

Following: "exterior of"

Strike: "vehicles and"

16. Page 3, line 13.

Following: "agriculture"

Strike: ", "

Insert: "and"

17. Page 3, line 13 through line 14.

Following: "parks" on line 13

Strike: ", and" on line 13 through "livestock" on line 14

18. Page 3, line 16.

Strike: "and the" through "livestock"

Following: "livestock,"

Strike: "a"

Insert: "an aquatic"

19. Page 3, line 24.

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

20. Page 5, line 9.

Strike: "vehicles and"

21. Page 5, line 10.

Strike: "vehicles and"

22. Page 5, line 11.

Strike: "vehicles and"

23. Page 5, line 26.

Strike: "vehicles and"

24. Page 5, line 28.

Strike: "vehicles and"

25. Page 5, line 30.

Insert: "vehicles and"

26. Page 6, line 1.

Strike: "vehicles and"

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

27. Page 6, line 16.

Strike: "aquatic"

28. Page 6, line 20.

Strike: "vehicle or"

29. Page 7, line 3.

Strike: "vehicles and"

30. Page 7, line 6 through line 7.

Strike: "vehicle" on line 6 through the first "or" on line 7

31. Page 7, line 10 through line 11.

Strike: ":" on line 10 through "(i)" on line 11

32. Page 7, line 11.

Strike: "; and"

Insert: "."

33. Page 7, line 12.

Strike: subsection (ii) in its entirety

34. Page 7, line 13.

Strike: "vehicle or"

35. Page 7, line 14.

Following: "exterior of the"

Strike: "vehicle or"

Following: "that"

Strike: "vehicle or"

36. Page 7, line 26.

Strike: "vehicle,"

Following: "vessel"

Strike: ", "

And, as amended, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

2/11/2009

SB 150, introduced bill, be amended as follows:

1. Title, page 1, line 16.

Strike: "39-51-2302,"

2. Page 1, line 29.

Following: "members"

Insert: "as prescribed in subsection (3) and in 2-15-124"

3. Page 2, line 20 through line 27.

Strike: section 4 in its entirety

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

Renumber: subsequent sections

4. Page 14, line 6 through page 15, line 7.

Strike: section 14 in its entirety

5. Page 21, line 9.

Strike: "(1)"

6. Page 21, line 12 through line 13.

Strike: subsection (2) in its entirety

7. Page 21, line 17.

Strike: "6" through "20"

Insert: "5 through 7, 9, 13, and 18"

8. Page 21, line 19.

Strike: "through 4"

Insert: "and 3"

Strike: "12," through "21"

Insert: "11, 12, 17, and 19"

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

2/10/2009

SB 283, introduced bill, be amended as follows:

1. Page 1, line 5.

Following: "PURPOSE OF"

Strike: "COMPLYING WITH"

Insert: "CONSIDERING"

2. Page 1, line 14.

Following: "plan to"

Strike: "comply with"

Insert: "consider"

3. Page 1, line 15.

Following: "2008"

Insert: ", and the rules adopted by the federal railroad administration to implement that act"

And, as amended, do pass. Report adopted.

SB 319, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

2/10/2009

SB 94, introduced bill, be amended as follows:

1. Title, line 11.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

2. Page 1, line 22.

Following: "(2)"

Insert: "(a)"

3. Page 1.

Following: line 23

Insert: " (b) For the purposes of this section, nonconsumptive use means a beneficial use of water that:

(i) does not cause a reduction in the source of supply;

(ii) returns substantially all of the water to the source of supply; and

(iii) causes little or no disruption in ground water or stream conditions."

4. Page 2, line 23.

Following: "~~if any,~~"

Insert: "if any,"

Following: "amount,"

Insert: "location, and"

Strike: ",and location"

Following: "of"

Insert: "any"

5. Page 2, line 24.

Strike: "potentially affected"

Following: "area"

Insert: "described in subsection (2)(a)"

6. Page 3.

Following: line 7

Insert: "(2) A hydrogeologic assessment that will be used to predict net depletion of surface water resulting from a new appropriation right must include hydrogeologic data or a model that includes:

(a) the area or estimated area of ground water that will be affected, not to exceed the boundaries of the drainage subdivisions established by the office of water data coordination, United States geological survey, and used by the water court, unless the applicant chooses to expand the boundaries;

(b) the geology of the area identified in subsection (2)(a), including stratigraphy and structure;

(c) the parameters of the aquifer system within the area identified in subsection (2)(a) that is assessed in the data or model;

(d) the locations of surface waters within the area described in subsection (2)(a) that are subject to an appropriation right, including but not limited to springs, creeks, streams, or rivers that may or may not show a net depletion;

(e) evidence of water availability; and

(f) the locations of all wells or other sources of ground water of record within the area identified in subsection (2)(a)."

7. Page 4.

Following: line 7

Insert: "(3) The hydrogeologic assessment must include an analysis of whether the information required by subsection (2) predicts that there may be a net depletion of surface water in the area described in subsection (2)(a) and the extent of the depletion, if any."

Renumber: subsequent subsections

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

8. Page 4, line 9.

Following: "~~data,~~"

Insert: "the monitoring well data,"

9. Page 5, line 3.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

10. Page 5, line 27.

Following: "vegetation"

Insert: "for which there is not an associated water right"

11. Page 5, line 30.

Following: "water."

Insert: "This subsection does not apply to actions that increase the efficiency of existing conveyance structures."

12. Page 8, line 27.

Following: "(iv)"

Insert: "that portion of a change in appropriation right to instream flow for"

13. Page 9, line 3.

Following: "or"

Insert: "that portion of a change in appropriation right to instream flow for"

14. Page 14.

Following: line 17

Insert: "NEW SECTION. Section 11. Applicability. [This act] applies to applications received by the department after [the effective date of this act]."

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

2/11/2009

SB 244, introduced bill, be amended as follows:

1. Page 2, line 7.

Following: "15-30-103 if"

Strike: " 2 "

Insert: ":

(A) the taxpayer has voluntarily filed an amended tax return and paid the tax due;

(B) the taxpayer pays the tax and interest due within 30 days following the first notice from the department to the taxpayer of the tax due;

(C) "

And, as amended, do pass. Report adopted.

SB 280, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "BIWEEKLY"

Insert: "SEMIMONTHLY"

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

2. Page 1, line 29.

Strike: "biweekly"

Insert: "semimonthly"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/10/2009

HB 177, introduced by Kottel

HB 208, introduced by O'Hara

HB 269, introduced by Mehlhoff

HB 295, introduced by Menahan

HB 296, introduced by Menahan

HB 311, introduced by Blasdel

HB 368, introduced by Fleming

MOTIONS

Senator J. Peterson moved that the Republicans caucus. Motion carried. Sen. Williams moved that the Democrats caucus. Motion carried.

Senate in recess.

Senate reconvened at 1:20 p.m.

Roll Call. All members present. Quorum present.

Senator Gebhardt moved that **SB 94** be removed from second reading and re-referred back to Natural Resources. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.

Total 46

Nays: Juneau, Kaufmann, Wanzenried, Windy Boy.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Balyeat moved **SB 408** be moved from the Business, Labor, and Economic Affairs committee to the Highways and Transportation committee. Motion carried.

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 429, introduced by Zinke, referred to Finance and Claims.

SB 430, introduced by Hamlett, Gebhardt, referred to Taxation.

SB 431, introduced by R. Brown, referred to Business, Labor, and Economic Affairs.

SB 432, introduced by R. Brown, Blewett, Blasdel, referred to Public Health, Welfare and Safety.

SB 433, introduced by Gebhardt, Tutvedt, Bales, Debby Barrett, Blasdel, Kasten, Mendenhall, Howard, Vincent, Getz, McChesney, Hiner, McNutt, referred to Local Government.

SB 434, introduced by Gebhardt, referred to Local Government.

SB 435, introduced by Brenden, Bales, Debby Barrett, Black, Curtiss, Gebhardt, Ripley, Stahl, Steinbeisser, Tutvedt, referred to Finance and Claims.

SB 436, introduced by Gallus, referred to Fish and Game.

SB 437, introduced by Perry, Story, McNutt, Cohenour, referred to Natural Resources.

SB 438, introduced by Juneau, Stewart-Peregoy, Augare, Kottel, referred to Business, Labor, and Economic Affairs.

SB 439, introduced by Story, referred to Public Health, Welfare and Safety.

SB 440, introduced by Gebhardt, Hinkle, Keane, Ankney, referred to Natural Resources.

SB 441, introduced by Laslovich, referred to Judiciary.

SB 442, introduced by Laslovich, referred to Judiciary.

SB 443, introduced by Black, referred to Highways and Transportation.

SB 444, introduced by Laslovich, referred to Business, Labor, and Economic Affairs.

SB 445, introduced by Branae, referred to Public Health, Welfare and Safety.

SB 446, introduced by Story, Gillan, Brueggeman, Keane, R. Brown, Larsen, Becker, P. Noonan, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gallus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 229 - Senator Perry moved **SB 229** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

Total 0

SB 124 - Senator Squires moved **SB 124** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 273 - Senator Laslovich moved **SB 273** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Juneau, Stewart-Peregoy.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 294 - Senator Gillan moved **SB 294** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 46

Nays: Balyeat, Esp, Hinkle, Mr. President.

Total 4

Absent or not voting: None.

Total 0

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

Excused: None.
Total 0

SB 309 - Senator Shockley moved **SB 309** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke.
Total 37

Nays: Barkus, Brenden, R. Brown, T. Brown, Esp, Hinkle, Laible, Perry, Ripley, Steinbeisser, M. Tropila, Wanzenried, Mr. President.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 10 - Senator Erickson moved **SJR 10** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Barkus, Brenden, Esp, Gebhardt, Hinkle, Keane, Ripley, Steinbeisser, Tutvedt.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Gallus moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Sen. Bales moved that **SB 309** be re-referred to Finance and Claims. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

SB 49 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Esp, Hinkle, Jackson, Steinbeisser.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 62 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.
Total 43

Nays: Erickson, Juneau, Kaufmann, Laslovich, Moss, Wanzenried, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 281 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Tutvedt, Wanzenried, Williams, Zinke.
Total 36

Nays: Balyeat, Erickson, Esp, Gebhardt, Juneau, Kaufmann, Moss, Murphy, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Windy Boy, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

SB 311 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Curtiss, Esp, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 340 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 45

Nays: R. Brown, Curtiss, Juneau, Stewart-Peregoy, Windy Boy.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 341 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Balyeat, R. Brown, Hinkle, Jackson, Juneau, Kaufmann, Murphy, Squires, Stewart-Peregoy.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
THIRTY-SECOND LEGISLATIVE DAY - FEBRUARY 11, 2009

SJR 17 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Esp, Gillan, Juneau, Keane.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, February 12, 2009. Motion carried.

Senate adjourned at 2:31 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-THIRD LEGISLATIVE DAY**

Helena, Montana
February 12, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

2/12/2009

Correctly printed: **SB 124, SB 229, SB 273, SB 294, SB 309, SB 319, SB 429, SB 430, SB 431, SB 432, SB 433, SB 434, SB 435, SB 436, SB 437, SB 438, SB 439, SB 440, SB 441, SB 442, SB 443, SB 444, SB 445, SB 446, SJR 10.**

Correctly engrossed: **SB 94, SB 150, SB 167, SB 244, SB 280, SB 283, SB 343.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

2/12/2009

SB 21, do pass. Report adopted.

SB 119, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "ALLOWING"

Insert: "REQUIRING"

2. Page 1, line 12.

Following: "(1)"

Strike: "Subject to available"

Insert: "If"

Following: "appropriations"

Insert: "specific for this purpose are provided by the legislature"

3. Page 1, line 13.

Following: "plan"

Insert: "is secured"

Following: "department"

Strike: "may"

Insert: "shall"

4. Page 6, line 13.

Following: "(11)"

Strike: "The"

Insert: "Subject to the limitation in [section 1], the"

Following: "department"

Strike: "may"

Insert: "shall"

And, as amended, do pass. Report adopted.

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

SB 224, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):
SB 100, introduced bill, be amended as follows:

2/12/2009

1. Title, page 1, line 6.

Strike: "AND"

Insert: ", "

Following: the second "DATE"

Insert: ", AND A TERMINATION DATE"

2. Page 2, line 4.

Strike: "10%"

Insert: "5.8%"

3. Page 3, line 16.

Strike: "10%"

Insert: "5.8%"

4. Page 3, line 27.

Insert: "NEW SECTION. **Section 4. Termination.** [This act] terminates September 30, 2013."

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):
SB 51, introduced bill, be amended as follows:

2/12/2009

1. Title, page 1, line 5.

Strike: "ADOPTING A POLICY"

2. Title, page 1, line 6.

Strike: "PROVIDERS"

Insert: "PRACTITIONERS"

Following: "PATIENTS;"

Insert: "AND"

3. Title, page 1, line 7.

Strike: "PROVIDERS"

Insert: "PRACTITIONERS"

4. Title, page 1, lines 7 and 8.

Following: "OF"

Strike: remainder of line 7 through "PROVIDERS" on line 8

Insert: "ANY FINANCIAL INTEREST ASSOCIATED WITH A REFERRAL"

5. Page 1, line 12 through page 3, line 3.

Strike: everything after the enacting clause

Insert: "NEW SECTION. **Section 1. Patient information -- disclosure required when making referrals -- definitions.** (1) It is public policy of the state of Montana that a patient receives from a health care practitioner information that allows the patient to make informed decisions not only relating to the patient's medical conditions

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

but also to the financial or quality aspects of the patient's health care decisions.

(2) A health care practitioner who has a financial interest in an entity that provides diagnostic services or therapeutic services or who receives compensation or remuneration for referral of the patient to an entity that provides diagnostic services or therapeutic services shall disclose the interest to a patient prior to referring the patient for diagnostic services or therapeutic services.

(a) The information must be disclosed on a written referral to each patient at the time of referral or, if referred by phone, verbal disclosure must be made at the time of referral and a written referral must be promptly sent to the patient.

(b) The referral must contain the following notice written conspicuously on its face:

"During the course of your relationship with this health care practitioner, you may be referred to another health care provider or health care facility in which the practitioner has an investment, employment, or contractual interest. You have the freedom to choose among health care providers and health care facilities."

(3) Subsection (2) applies to an entity that provides diagnostic services and therapeutic services within a hospital even though the entity is not owned by the hospital.

(4) (a) Except as provided in subsection (4)(b), this section does not apply to a patient receiving emergency care or to a patient admitted to a hospital or critical access hospital.

(b) Upon discharge, the inpatient or outpatient must be provided with the disclosure and referral information contained in subsection (2).

(5) Failure to provide disclosure of a financial interest may result in a \$100 penalty assessed by the department. The department shall report the violation to the appropriate licensing board.

(6) For the purposes of this section, the following definitions apply:

(a) "Department" means the department of public health and human services provided for in 2-15-2201.

(b) "Diagnostic services" means providing any test to determine or identify the nature of a disease, including laboratory and exploratory tests.

(c) "Financial interest" means that the health care practitioner or a partner or employee of the practitioner directly or indirectly holds through business or investment an ownership, contractual, or employment interest in or with another health care practitioner, health care facility, or other person or entity that is the beneficiary of the referral.

(d) "Health care facility" has the meaning provided in 50-5-101.

(e) "Health care practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(f) "Health care provider" has the meaning provided in 50-4-504.

(g) "Therapeutic services" means physical therapy, radiation therapy, and rehabilitation services, including physical therapy, occupational therapy, speech pathology, and any combination of those services."

Insert: "NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [section 1]."

And, as amended, do pass. Report adopted.

SB 271, introduced bill, be amended as follows:

1. Title, page 1, lines 5 and 6.

Strike: "RENAMING" on line 5 through "COUNSELORS;" on line 6

2. Title, page 1, line 9.

Strike: "SECTIONS 2-15-1744, 37-22-102,"

Insert: "SECTION"

Strike: "AND 37-23-102,"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

3. Page 1, line 14 through line 26.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 1, line 30.

Strike: "2 through 6"

Insert: "1 through 5"

5. Page 2, line 1.

Strike: "2 through 6"

Insert: "1 through 5"

6. Page 2, line 6.

Strike: "2 through 6"

Insert: "1 through 5"

7. Page 2, line 8.

Strike: ", marriage and family therapists,"

8. Page 2, line 11.

Strike: "2 through 6"

Insert: "1 through 5"

9. Page 3, line 19.

Strike: "2 through 6"

Insert: "1 through 5"

10. Page 4, line 4.

Strike: "2 through 6"

Insert: "1 through 5"

11. Page 4, line 13.

Strike: "2 through 6"

Insert: "1 through 5"

12. Page 4, line 21.

Strike: "2 through 6"

Insert: "1 through 5"

13. Page 4, line 23.

Strike: "2 through 6"

Insert: "1 through 5"

14. Page 4, line 24.

Strike: "2 through 6"

Insert: "1 through 5"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

15. Page 4, line 29 through page 5, line 19.

Strike: section 7 in its entirety

Renumber: subsequent sections

16. Page 5, lines 23 and 24.

Strike: "2" on line 23 through "6" on line 24

Insert: "1 through 5"

17. Page 5, line 26.

Strike: "2 through 6"

Insert: "1 through 5"

18. Page 5, line 30.

Strike: "2 through 6"

Insert: "1 through 5"

19. Page 6, line 5 through line 28.

Strike: section 9 in its entirety

Renumber: subsequent sections

20. Page 6, line 30.

Strike: "2 through 6"

Insert: "1 through 5"

21. Page 7, line 1.

Strike: "2 through 6"

Insert: "1 through 5"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/12/2009

SB 241, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: " ; "

Insert: "PROVIDING A FUNDING RESTRICTION; AMENDING SECTION 2-17-521, MCA; "

2. Page 1, line 17.

Strike: "department"

Insert: "division"

3. Page 1, line 27 through line 28.

Strike: line 27 through line 28 in their entirety

Insert: "(3) "Division" means the legislative fiscal division established in 5-12-301.

Renumber: subsequent subsections

4. Page 2, line 26.

Strike: "director"

Insert: "legislative fiscal analyst"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

5. Page 2, line 28.

Strike: "(7)"

Insert: "(6)"

6. Page 3, line 1.

Following: "(1)"

Insert: "The legislative fiscal analyst, based on guidance from the advisory council, is responsible for establishing and maintaining a searchable budget database website in accordance with the provisions of [sections 1 through 5]."

7. Page 3, line 2.

Strike: "department"

Insert: "division"

Following: "develop"

Insert: "and establish"

Strike: "a"

Insert: "an initial basic"

8. Page 3, line 4.

Strike: "director"

Insert: "legislative fiscal analyst"

9. Page 3, line 6.

Strike: "director"

Insert: "legislative fiscal analyst"

10. Page 3, line 9.

Following: "shall"

Insert: "cooperate with the division and advisory council and"

Strike: "department"

Insert: "division"

11. Page 3, line 11.

Strike: "department"

Insert: "division"

Following: "section"

Insert: ", including recommendations on how an agency's existing information technology capabilities and future information technology project development may be integrated with or otherwise support the searchable budget database website"

12. Page 3, line 12.

Strike: "department"

Insert: "division"

13. Page 3, line 17.

Strike: "The director shall appoint a"

Insert: "(1) There is a seven-member"

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

14. Page 3, line 18.

Following: "feedback"

Insert: "to the legislative fiscal analyst and the division"

15. Page 3, line 19 through line 20.

Following: "website." on line 19

Insert: "(2) Members of the advisory council must be as follows:

(a) the senate committee on committees shall appoint one senator and one person representing advocates for transparency in government;

(b) the speaker of the house shall appoint one representative and one person representing advocates for transparency in government;

(c) the legislative finance committee shall appoint a person to represent the division;

(d) the governor shall appoint a person from the governor's budget office; and

(e) the chief information officer appointed by the department of administration pursuant to Title 2, chapter 17, part 5, is an ex-officio voting member.

(3)"

Strike: "shall" on line 19 through "that" on line 20

16. Page 3.

Following: line 21

Insert: "NEW SECTION. Section 6. Funding restriction. Funding for the purposes of [sections 1 through 5] may not exceed a total amount equal to \$275,000 in each fiscal year, but the total may be provided as a biennial appropriation."

Insert: "Section 7. Section 2-17-521, MCA, is amended to read:

"2-17-521. State strategic information technology plan -- biennial report. (1) The department shall prepare a state strategic information technology plan. The department shall seek the advice of the board in the development of the plan.

(2) The plan must:

(a) reflect the policies as set forth in 2-17-505 and be in accordance with statewide standards and policies established by the department;

(b) establish the statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services; ~~and~~

(c) establish the strategic direction for how state agencies will develop and use information technology resources to provide state government services; and

(d) consider how agency information technology resources and project development may support the goals of [sections 1 through 5].

(3) The department shall update the plan as necessary. The plan and any updates must be distributed as provided in 2-17-522.

(4) The department shall prepare a biennial report on information technology based on agency information technology plans and performance reports required under 2-17-524 and other information considered appropriate by the department. The biennial report must include:

(a) an analysis of the state's information technology infrastructure, including its value, condition, and capacity;

(b) an evaluation of performance relating to information technology;

(c) an assessment of progress made toward implementing the state strategic information technology plan;

(d) an inventory of state information services, equipment, and proprietary software;

(e) agency budget requests for major projects; and

(f) other information as determined by the department or requested by the governor or the legislature.""

Renumber: subsequent sections

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

17. Page 3, line 24.

Strike: the first "17"

Insert: "5"

Strike: the first "1"

Insert: "12"

Strike: the second "17"

Insert: "5"

Strike: the second "1"

Insert: "12"

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

2/12/2009

SB 265, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

February 10, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 7** sponsored by Senator Gebhardt, **Senate Bill 10** sponsored by Senator Perry, and **Senate Bill 11** sponsored by Senator J. Peterson on February 10, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/11/2009

HB 82, introduced by Driscoll

HB 128, introduced by Sesso

HB 172, introduced by Arntzen

HB 228, introduced by Kerns

HB 287, introduced by Driscoll

HB 298, introduced by Blewett

HB 337, introduced by Blewett

HB 354, introduced by Glaser

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 447, introduced by Moss, Shockley, referred to Judiciary.
SB 448, introduced by Keane, referred to Local Government.
SB 449, introduced by Keane, referred to Energy and Telecommunications.
SB 450, introduced by Keane, referred to Education and Cultural Resources.
SB 451, introduced by Wanzenried, R. Brown, Branae, Moss, Squires, Essmann, Blasdel, Glaser, O'Hara, referred to Natural Resources.
SB 452, introduced by Curtiss, Gebhardt, referred to Finance and Claims.
SB 453, introduced by Curtiss, Erickson, Hinkle, Murphy, Zinke, Perry, Jackson, Gebhardt, Debby Barrett, Shockley, referred to Agriculture, Livestock and Irrigation.
SB 454, introduced by R. Brown, referred to Judiciary.
SB 455, introduced by Hinkle, Curtiss, Black, Jackson, Balyeat, Bennett, McGillvray, Mendenhall, Reichner, Regier, Arntzen, Hendrick, Boniek, Randall, Miller, Kerns, Morgan, Taylor, referred to Taxation.
SB 456, introduced by Juneau, Augare, Belcourt, Calf Boss Ribs, Pease-Lopez, referred to Taxation.
SB 457, introduced by Branae, referred to Highways and Transportation.
SB 458, introduced by Barkus, Berry, referred to Public Health, Welfare and Safety.
SB 459, introduced by Erickson, Branae, Kaufmann, Juneau, Williams, McAlpin, referred to Taxation.
SB 460, introduced by Story, Zinke, J. Peterson, R. Brown, Barkus, McGee, Bales, Laible, Hinkle, Brenden, Black, Esp, Tutvedt, Brueggeman, Gebhardt, Lewis, Shockley, Kerns, Sales, McGillvray, Kasten, Hollandsworth, D. Brown, Mendenhall, referred to Finance and Claims.
SB 461, introduced by Brueggeman, Belcourt, referred to Natural Resources.
SJR 26, introduced by Juneau, Augare, Belcourt, Calf Boss Ribs, Pease-Lopez, Campbell, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 73 - Senator Hawks moved **SB 73** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator McGee in the chair.

SB 95 - Senator Brueggeman moved **SB 95** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Brueggeman in the chair.

SB 120 - Senator Zinke moved **SB 120** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Ripley, Shockley, Stewart-Peregoy.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved **SB 216** be passed for the day. Motion carried.

SB 296 - Senator Essmann moved **SB 296** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 299 - Senator J. Tropila moved **SB 299** do pass. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laslovich, McGee, Moss, Peterson, Ripley, Steinbeisser, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 308 - Senator Keane moved **SB 308** do pass. Motion carried as follows:

Yeas: Barkus, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 33

Nays: Bales, Balyeat, Barrett, Black, Brenden, Curtiss, Esp, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 325 - Senator Perry moved **SB 325** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau,

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 124 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 229 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 268 passed as follows:

Yeas: Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Gebhardt, Hansen, Hinkle, Jackson, Keane, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 273 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Juneau, Stewart-Peregoy.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 294 passed as follows:

Yeas: Bales, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Barkus, Barrett, Esp, Hinkle, McGee, Shockley.
Total 7

SENATE JOURNAL
THIRTY-THIRD LEGISLATIVE DAY - FEBRUARY 12, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 10 passed as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Barkus, Brenden, Esp, Gebhardt, Hinkle, Keane, McGee, Ripley, Steinbeisser, Tutvedt.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Gallus moved that his vote on **SB 229** be changed from yes to no. Motion carried.

Senator Windy Boy moved that his vote on **SB 229** be changed from yes to no. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, February 13, 2009. Motion carried.

Senate adjourned at 1:56 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
February 13, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

2/13/2009

Correctly printed: **SB 21, SB 73, SB 95, SB 120, SB 224, SB 265, SB 296, SB 299, SB 308, SB 325, SB 447, SB 448, SB 449, SB 450, SB 451, SB 452, SB 453, SB 454, SB 455, SB 456, SB 457, SB 458, SB 459, SB 460, SB 461, SJR 26.**

Correctly engrossed: **SB 51, SB 100, SB 119, SB 241, SB 271.**

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

2/13/2009

SB 376, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

2/13/2009

SB 213, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "FROM"

Insert: "BETWEEN"

Strike: "TO"

Insert: "AND"

2. Page 1, line 8.

Following: line 7

Insert: "WHEREAS, there are a number of diseases that may be transmitted between game animals and livestock or humans; and

WHEREAS, the transmission of diseases between game animals and livestock, including the transmission of brucellosis from livestock to game animals in the 1800s, the retransmission of brucellosis from game animals to livestock, and the transmission of other diseases to livestock or humans, can have adverse impacts on the state economy; and

WHEREAS, it is much more cost-effective to attempt to prevent the transmission of disease between game animals and livestock or humans than it is to eradicate a disease after it is transmitted between game animals and livestock or humans; and

WHEREAS, the Department of Fish, Wildlife, and Parks has been working and should continue to work collaboratively with the Department of Livestock to take reasonable and prudent steps to reduce the risk of transmission of disease between game animals and livestock or humans; and

WHEREAS, the goal of these efforts by the Department of Fish, Wildlife, and Parks should be to manage wildlife to prevent the transmission of disease between game animals and livestock or humans."

3. Page 2, line 13.

Following: "(iii)"

Insert: "to the greatest extent possible,"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

4. Page 2, line 13.

Strike: "from"

Insert: "between"

5. Page 2, line 14.

Strike: "to"

Insert: "and"

And, as amended, do pass. Report adopted.

SB 336, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "TRAINED,"

2. Page 2, line 9.

Following: "(4)"

Strike: "(a)"

Strike: "trained"

3. Page 2, line 16 through line 18.

Strike: subsection (b) in its entirety

And, as amended, do pass. Report adopted.

SB 344, introduced bill, be amended as follows:

1. Page 2, line 5 through line 6.

Strike: "is declared" on line 5 through "contain any" on line 6

Insert: "has a genetic composition that indicates the captive breeding of a wolf or wolves or that is represented by the owner to the public as being"

And, as amended, do pass. Report adopted.

SJR 19, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

2/13/2009

SR 3, do pass. Preliminary report adopted.

JUDICIARY (Perry, Chairman):

2/13/2009

SB 250, introduced bill, be amended as follows:

1. Page 4, line 5.

Strike: "\$50,000"

Insert: "\$10,000"

2. Page 4, line 6.

Following: "exceed"

Strike: "10 years"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

Insert: "1 year"

And, as amended, do pass. Report adopted.

SB 368, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/12/2009

SJR 22, introduced joint resolution, be amended as follows:

1. Title, line 9.

Following: "REPLACEMENT"

Insert: "OR RETIREMENT"

2. Page 1, line 20.

Following: "aircraft"

Insert: "; and

WHEREAS, some state-owned aircraft may not even be cost- effective and a cost/benefit analysis would be useful"

3. Page 1, line 25.

Following: "replacement"

Insert: "or retirement"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/12/2009

HB 71, introduced by Sands

HB 80, introduced by Kottel

HB 94, introduced by McNutt

HB 108, introduced by Hollenbaugh

HB 140, introduced by Vincent

HB 156, introduced by Pomnichowski

HB 247, introduced by Bergren

HB 270, introduced by Reinhart

HB 286, introduced by Sonju

HB 304, introduced by Sonju

HB 373, introduced by Wilmer

HB 374, introduced by Arntzen

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 462, introduced by Steinbeisser, referred to Taxation.

SB 463, introduced by Wanzenried, Furry, referred to Public Health, Welfare and Safety.

SB 464, introduced by Laslovich, Gallus, Keane, Villa, Hiner, Sesso, P. Noonan, A. Noonan, referred to Judiciary.

SB 465, introduced by Hamlett, Story, referred to Taxation.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

SB 466, introduced by Branae, referred to Judiciary.
SB 467, introduced by Balyeat, referred to Taxation.
SB 468, introduced by Barkus, Murphy, Ripley, Perry, Jones, Klock, Ankney, referred to Judiciary.
SB 469, introduced by Brueggeman, Cooney, referred to State Administration.
SB 470, introduced by Gallus, referred to Fish and Game.
SB 471, introduced by Brueggeman, referred to Highways and Transportation.
SB 472, introduced by Brenden, referred to Public Health, Welfare and Safety.
SB 473, introduced by Curtiss, Jackson, referred to Agriculture, Livestock and Irrigation.
SB 474, introduced by Curtiss, Balyeat, Jackson, referred to State Administration.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 27, introduced by Balyeat, Hinkle, R. Brown, Curtiss, McGee, J. Tropila, Jackson, referred to Judiciary.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 8, introduced by Kasten, referred to Finance and Claims.

MOTIONS

Senator J. Peterson moved that the Republicans caucus. Motion carried. Sen. Williams moved that the Democrats caucus. Motion carried.

Senate in recess.

Senate reconvened at 1:23 p.m.

Roll Call. All members present. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gillan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 142 - Senator Perry moved **SB 142** do pass.

Senator Perry moved **SB 142**, second reading copy, be amended as follows:

1. Title, line 7.

Strike: "REPRODUCTIVE HEALTH"

Insert: "DISABILITY INSURANCE"

2. Page 2, line 13.

Strike: "(a)"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

3. Page 2, line 14 and 15.

Following: "gender" on line 14

Strike: remainder of line 14 through "policies" on line 15

4. Page 2, line 16 through line 18.

Strike: subsection (b) in its entirety

Amendment adopted as follows:

Yeas: Barkus, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.

Total 29

Nays: Bales, Balyeat, Barrett, Black, Brenden, Curtiss, Erickson, Essmann, Gebhardt, Hinkle, Jackson, Kaufmann, McGee, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 142 - Senator Perry moved **SB 142**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 150 - Senator Brueggeman moved **SB 150** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Barkus, Barrett, Brenden, Hinkle, McGee.

Total 5

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 167 - Senator Zinke moved **SB 167** do pass. Motion carried as follows:

Yeas: Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 35

Nays: Bales, Balyeat, Barrett, Brenden, R. Brown, Gebhardt, Hansen, Hinkle, Juneau, Kaufmann, Keane, Peterson, Stewart-Peregoy, Tutvedt, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 269 - Senator R. Brown moved **SB 269** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 283 - Senator Erickson moved **SB 283** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

Nays: Brenden, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 319 - Senator Keane moved **SB 319** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 343 - Senator Jackson moved **SB 343** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Esp, Juneau.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Gillan moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

MOTIONS

Sen. Bales moved that SB 343 be re-referred to Finance and Claims. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 73 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 48

Nays: Keane, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 95 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 120 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 45

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

Nays: Balyeat, Shockley, Steinbeisser, Stewart-Peregoy, Windy Boy.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 296 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 299 passed as follows:

Yeas: Branae, R. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Curtiss, Esp, Gebhardt, Hinkle, McGee, Steinbeisser, Tutvedt, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 308 passed as follows:

Yeas: Barkus, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 35

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 13, 2009

Nays: Bales, Balyeat, Barrett, Black, Brenden, Curtiss, Esp, Hinkle, Jackson, Laible, McGee, Ripley, Shockley, Steinbeisser, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 325 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Saturday, February 14, 2009. Motion carried.

Senate adjourned at 2:36 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 14, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Zinke and Senator Hansen, excused. Quorum present.

BILLS AND JOURNALS:

2/14/2009

Correctly printed: **SB 150, SB 167, SB 269, SB 283, SB 319, SB 343, SB 368, SB 376, SB 462, SB 463, SB 464, SB 465, SB 466, SB 467, SB 468, SB 469, SB 470, SB 471, SB 472, SB 473, SB 474, SJR 19, SJR 27.**
Correctly engrossed: **SB 142, SB 213, SB 250, SB 336, SB 344, SJR 22.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
SB 323, introduced bill, be amended as follows:

2/13/2009

1. Title, page 1, line 6.

Following: "IF"

Insert: "THE LEASE IS NOT REVISED OR"

2. Page 1, line 14.

Following: "effect if"

Insert: "a revised lease is not agreed to or if"

Following: "party gives"

Insert: "a 30-day written"

3. Page 1, line 19.

Following: "party gives"

Insert: "a 30-day written"

4. Page 1, line 22.

Following: "party gives"

Insert: "a 30-day written"

And, as amended, do pass. Report adopted.

SB 335, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Strike: "BY PERSONS" through "QUALIFIED"

2. Page 1, line 16.

Strike: "adopt"

Insert: "set"

Following: "standards and"

Insert: "adopt and enforce"

3. Page 1, line 17.

Following: "jurisdiction;"

Insert: "and"

4. Page 1, line 20 through line 21.

Strike: "; and" on line 20 through "manner" on line 21

Insert: "and"

5. Page 1, line 22 through line 23.

Strike: "from persons" on line 22 through "occupation" on line 23

And, as amended, do pass. Report adopted.

SB 371, introduced bill, be amended as follows:

1. Page 6, line 12.

Following: "(2)"

Insert: "(a)"

2. Page 6, line 14.

Strike: "(a)"

Insert: "(i)"

Strike: "the employer's premises"

Insert: "any worksite of an employer"

3. Page 6, line 16.

Strike: "(b)"

Insert: "(ii) except as provided in subsection (2)(b),"

4. Page 6, line 18.

Following: "activity."

Strike: "This exemption does"

Insert: "

(b) The provisions of subsection (2)(a)(ii) do"

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

2/14/2009

SB 248, do pass. Report adopted.

SJR 23, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/13/2009

SB 331, do pass. Report adopted.

SB 394, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/13/2009

HB 27, introduced by Wiseman

HB 133, introduced by Stoker

HB 243, introduced by Hunter

Senate bill concurred in and returned to the Senate:

2/13/2009

SB 115, introduced by Kaufmann

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 475, introduced by Esp, referred to Energy and Telecommunications.

SB 476, introduced by Shockley, referred to Judiciary.

SB 477, introduced by Kaufmann, referred to Education and Cultural Resources.

SB 478, introduced by Brenden, Ripley, Steinbeisser, Hinkle, Debby Barrett, Curtiss, referred to Agriculture, Livestock and Irrigation.

SB 479, introduced by Kaufmann, referred to Public Health, Welfare and Safety.

SB 480, introduced by Kaufmann, referred to Public Health, Welfare and Safety.

SB 481, introduced by Barkus, Ankney, Bennett, Kasten, McNutt, Ingraham, Keane, Welborn, Klock, Lewis, Gebhardt, referred to Natural Resources.

SB 482, introduced by McGee, referred to Local Government.

SB 483, introduced by Essmann, referred to Highways and Transportation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 28, introduced by J. Peterson, Laslovich, Zinke, Brueggeman, Hendrick, referred to Energy and Telecommunications.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 150 passed as follows:

Yeas: Bales, Balyeat, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 45

Nays: Barkus, Barrett, Brenden.

Total 3

Absent or not voting: None.

Total 0

Excused: Hansen, Zinke.

Total 2

SB 167 passed as follows:

Yeas: Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 35

Nays: Bales, Balyeat, Barrett, Brenden, R. Brown, Gebhardt, Hansen, Hinkle, Juneau, Kaufmann, Keane, Peterson, Stewart-Peregoy, Tutvedt, Mr. President.
Total 15

Paired: Laslovich, Zinke, Aye; Hansen, Keane, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 269 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Zinke.
Total 2

SB 283 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 46

Nays: Brenden, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: Hansen, Zinke.
Total 2

SB 319 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Hansen, Zinke.

Total 2

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Ripley in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 21 - Senator Story moved **SB 21** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Hansen, Zinke.

Total 2

SB 100 - Senator Black moved **SB 100** do pass. Senator Black withdrew his motion.

SB 100 - Senator Black moved **SB 100** be passed for the day. Without objection, so ordered.

SB 119 - Senator Esp moved **SB 119** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Zinke.
Total 2

SB 174 - Senator Perry moved **SB 174** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Zinke.
Total 2

Senator Peterson moved that **SB 224**, **SB 244**, and **SB 271** be passed for the day. Without objection, so ordered.

SB 265 - Senator T. Brown moved **SB 265** do pass. Motion **failed** as follows:

Yeas: Bales, Branae, T. Brown, Erickson, Essmann, Juneau, Kaufmann, Laible, Larsen, Williams.
Total 10

Nays: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Mr. President.
Total 38

Absent or not voting: None.
Total 0

Excused: Hansen, Zinke.
Total 2

SB 265 - Senator J. Peterson moved **SB 265** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 40

Nays: Branae, T. Brown, Erickson, Essmann, Gillan, Juneau, Laible, Larsen.
Total 8

Absent or not voting: None.
Total 0

Excused: Hansen, Zinke.
Total 2

SB 280 - Senator Gebhardt moved **SB 280** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Zinke.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Ripley moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Balyeat moved that **SB 244** be re-referred to Taxation. Motion carried.

Bales move **SB 100** be re-referred to Finance and Claims. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Barkus thanked the Pages for their work during the week of February 9-14, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, February 16, 2009. Motion carried.

Senate adjourned at 8:57 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
February 16, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Tom Schlotterback, King of Glory Lutheran Church, Billings. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

2/16/2009

Correctly printed: **SB 21, SB 119, SB 174, SB 248, SB 280, SB 331, SB 394, SB 475, SB 476, SB 477, SB 478, SB 479, SB 480, SB 481, SB 482, SB 483, SJR 23, SJR 28.**

Correctly engrossed: **SB 323, SB 335, SB 371.**

Correctly enrolled: **SB 39, SB 115.**

Examined by the sponsor and found to be correct: **SB 39, SB 115.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

2/16/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, February 14, 2009:

TITLE

NAME

Pages:

Jordan Marquis, Great Falls
Dylan Klapmeier, Forsyth
Madison Olson, Great Falls
Brenna Howard, Great Falls
Michael Steppler, Brockton
Kyndall Miller, Laurel
Kelsey Colbert, Missoula

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 16, 2009:

TITLE

NAME

Pages:

Amy Carlin, Kalispell
Brad Carlin, Kalispell
Rollie Goodman, Bozeman
Matthew Wheat, Bozeman
Alec Truax, Helena
Colton Stephens, Choteau
Elizabeth McGee, Laurel
Jessica Englert, Laurel

Report Adopted.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman):

2/16/2009

SB 46, do pass. Report adopted.

SB 400, do pass. Report adopted.

SB 405, do pass. Report adopted.

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

LOCAL GOVERNMENT (Esp, Chairman):
SB 8, introduced bill, be amended as follows:

2/16/2009

1. Title, line 5.

Strike: "SELF-GOVERNING"

Insert: "CERTAIN"

Following: "POWERS;"

Insert: "AUTHORIZING THE ISSUANCE OF REVENUE BONDS TO FUND PROJECTS;"

2. Title, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "2-7-501,"

Insert: "7-6-4020, 7-6-4035, AND 15-10-420,"

3. Page 1, line 12.

Strike: "7"

Insert: "22"

4. Page 1, line 14.

Following: "agricultural"

Strike: ", "

Insert: "and"

Following: "recreational"

Strike: ", and municipal"

5. Page 1, line 18.

Strike: "limits"

Insert: "boundaries"

6. Page 1, line 25.

Strike: "must"

7. Page 1, line 26.

Following: "(i)"

Insert: "must"

Following: "possible;"

Strike: "and"

8. Page 1, lines 27 and 28.

Following: "(ii)" on line 27

Insert: "must"

Following: "towns" on line 27

Strike: remainder of line 27 through "government" on line 28

Following: ";" on line 28

Insert: "and"

(iii) may not include land, water, or other resources within the exterior boundary of an Indian reservation as part of assessable land subject to the jurisdiction of a regional resource authority without the express written consent of the governing body of the tribal government for the reservation;"

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

9. Page 2, line 1.

Following: " ; "

Insert: "and"

10. Page 2, line 2.

Strike: line 2 in its entirety

Renumber: subsequent subsection

11. Page 2, line 4.

Strike: "and granting it the powers enumerated in a charter"

12. Page 2, line 20.

Strike: "and exercise the powers proposed in the accompanying charter"

13. Page 2, line 23.

Following: " ; "

Insert: "and"

14. Page 2, lines 24 and 25.

Following: "authority" on line 24

Strike: remainder of line 24 through "authority" on line 25

15. Page 2, lines 26 and 27.

Following: "authority" on line 26

Strike: remainder of line 26 through "charter" on line 27

16. Page 3, line 5.

Following: "authority"

Strike: "and granting it the powers enumerated in the proposed charter"

17. Page 3, line 18 through line 28.

Strike: section 7 in its entirety

Insert: "NEW SECTION. **Section 7. Regional resource authority -- powers -- limits.** (1) A regional resource authority has power to:

- (a) sue and be sued;
- (b) purchase and hold lands within its limits;
- (c) make contracts and purchase and hold personal property that may be necessary to the exercise of its powers;
- (d) make orders for the disposition or use of its property that the interests of its inhabitants require; and
- (e) subject to 15-10-420, levy and collect taxes for public or governmental purposes, as described in 7-6-2527, under its exclusive jurisdiction unless prohibited by law;
- (f) impose fees or assessments for services provided;
- (g) pay debts and expenses;
- (h) solicit and accept bequests, donations, or grants of money, property, services, or other advantages and comply with any condition that is not contrary to the public interest;
- (i) execute documents necessary to receive money, property, services, or other advantages from the state government, the federal government, or any other source;
- (j) make grants and loans of money, property, and services for public purposes;
- (k) require the attendance of witnesses and production of documents relevant to matters being considered by the governing body;
- (l) hire, direct, and discharge employees and appoint and remove members of boards;

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

(m) ratify any action of the regional resource authority or its officers or employees that could have been approved in advance;

(n) acquire by eminent domain, as provided in Title 70, chapter 30, any interest in property for a public use authorized by law;

(o) initiate a civil action to restrain or enjoin an action adverse to the regional resource authority;

(p) enter private property, obtaining warrants when necessary, for the purpose of enforcing its authority that affects the general welfare and public safety;

(q) conduct preparatory studies;

(r) purchase insurance and establish self-insurance plans;

(s) exercise powers not inconsistent with law necessary for effective administration of authorized services and functions; and

(t) issue bonds and notes for the purpose of funding projects as provided in [sections 8 through 22].

(2) A regional resource authority may not:

(a) authorize a tax on income or the sale of goods or services;

(b) regulate private activity beyond its geographic limits;

(c) impose a duty on another unit of local government, except that nothing in this limitation affects the right of a regional resource authority to enter into and enforce an agreement on interlocal cooperation;

(d) exercise any judicial function, except as an incident to the exercise of an administrative power; or

(e) exercise any power enumerated in 7-1-111."

Insert: "NEW SECTION. Section 8. Regional resource authority projects -- definition. (1) A regional resource authority may:

(a) construct, reconstruct, improve, or extend any project within the boundaries of the regional resource authority or partially within or partially outside of the boundaries, and acquire by gift, purchase, or the exercise of the right of eminent domain pursuant to Title 70, chapter 30, any project and land or rights in land or water rights in connection with the project;

(b) operate and maintain any project and furnish the service, facilities, and commodities of the project for its own use and for the use of public and private consumers within or outside of the boundaries of the regional resource authority; and

(c) prescribe and collect rates, fees, and charges for the services, facilities, and commodities furnished by the project.

(2) The project may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended and bonds may be issued under [sections 8 through 22] for those purposes.

(3) As used in [sections 8 through 22], "project" means one or a combination of water systems, together with all parts of the systems and appurtenances to the systems, including but not limited to supply and distribution systems, reservoirs, dams, and treatment and disposal works."

Insert: "NEW SECTION. Section 9. Role of state agencies. A regional resource authority acting pursuant to [sections 8 through 22] is not required to obtain any certificate of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board, commission, or other instrumentality of the state in order to acquire, construct, purchase, reconstruct, improve, better, extend, maintain, and operate a project. The supervisory powers and duties of the department of environmental quality apply to projects under [sections 8 through 22], and the functions of the department of natural resources and conservation and the water court apply to water rights associated with projects."

Insert: "NEW SECTION. Section 10. Authority to issue revenue bonds. A regional resource authority may:

(1) issue its bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any project;

(2) pledge to the punctual payment of the bonds issued under [sections 8 through 22] and interest on the bonds an amount of the revenue of the project or of any part of the project sufficient to pay the bonds and interest as the bonds and interest become due and create and maintain reasonable reserves for the payments. "

Insert: "NEW SECTION. Section 11. Determination of cost. The governing body of a regional resource authority, in determining cost for purposes of [section 10], may include:

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

(1) all costs and estimated costs of the issuance of revenue bonds, including a permissible underwriter's discount, if any;

(2) all engineering, inspection, fiscal, and legal expenses; and

(3) interest estimated to accrue during the construction period and for 6 months after construction on money borrowed or on money that it is estimated will be borrowed pursuant to [sections 8 through 22]. "

Insert: "NEW SECTION. Section 12. Nature of revenue bonds. (1) The holder or holders of any bonds issued under [sections 8 through 22] does not have the right to compel any exercise of taxing power of the regional resource authority to pay the revenue bonds or the interest on the bonds.

(2) Each bond issued under [sections 8 through 22] must recite in substance that:

(a) the bond, including interest on the bond, is payable from the revenue pledged to the payment of the bond; and

(b) the bond does not constitute a debt of the regional resource authority within the meaning of any constitutional or statutory limitation or provision. "

Insert: "NEW SECTION. Section 13. Projects to be self-supporting. (1) A regional resource authority issuing bonds pursuant to [sections 8 through 22] shall prescribe and collect reasonable rates, fees, or charges for the services, facilities, and commodities of the project and shall revise the rates, fees, or charges from time to time whenever necessary so that the project is and remains self-supporting. The property taxes specifically authorized to be levied for the general purpose served by the project constitute revenue of the project and may not result in a project being considered not self-supporting.

(2) The rates, fees, or charges prescribed, along with any appropriated property tax collections, must produce revenue at least sufficient to:

(a) pay when due all bonds and interest on the bonds, the payment for which the revenue has been pledged, charged, or otherwise encumbered, including reserves for the bonds; and

(b) provide for all expenses of operation and maintenance of the project, including reserves."

Insert: "NEW SECTION. Section 14. Use of revenue from project. (1) A regional resource authority issuing bonds pursuant to [sections 8 through 22] for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any project has the right to appropriate, apply, or expend the revenue of the project for the following purposes:

(a) to pay when due all bonds and interest on the bonds for the payment of which the revenue is or has been pledged, charged, or otherwise encumbered, including reserves;

(b) to provide for all expenses of operation and maintenance of the project, including reserves; and

(c) to provide a reserve for improvements or enhancements to the project.

(2) Unless and until adequate provision has been made for the purposes of subsection (1), a regional resource authority may not transfer the revenue of the project to its general fund."

Insert: "NEW SECTION. Section 15. Covenants in resolution authorizing issuance of bonds. Any resolution or resolutions authorizing the issuance of bonds under [sections 8 through 22] may contain covenants as to:

(1) the purpose or purposes to which the proceeds of sale of the bonds may be applied and the disposition of the proceeds;

(2) the use and disposition of the revenue of the project for which the bonds are to be issued, including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion of the property tax revenue referred to in [section 7];

(3) the transfer from the general fund of the regional resource authority to the account or accounts of the project of an amount equal to the cost of furnishing the regional resource authority or any of its departments or boards with the services, facilities, or commodities of the project;

(4) the issuance of other or additional bonds payable from the revenue of the project;

(5) the operation and maintenance of the project;

(6) the insurance to be carried on the project and the use and disposition of insurance money;

(7) books of account and the inspection and audit of the books; and

(8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of the bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver may:

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

- (a) enter and take possession of the project;
- (b) operate and maintain the project;
- (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and
- (d) collect, receive, and apply all revenue arising from the project."

Insert: "NEW SECTION. Section 16. Remedies. The provisions of [sections 8 through 22] and any resolution or resolutions are enforceable by any bondholder in any court of competent jurisdiction by mandamus or other appropriate suit, action, or proceeding."

Insert: "NEW SECTION. Section 17. Presumption of validity of bonds. (1) Bonds bearing the signatures of the officers of the regional resource authority in office on the date of the signing of the bonds are valid and binding obligations, notwithstanding that before the delivery of the bonds and payment for the bonds, any or all the persons whose signatures appear on the bonds have ceased to be officers of the regional resource authority issuing the bonds.

(2) The validity of the bonds is not dependent on or affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the project for which the bonds are issued.

(3) The resolution authorizing the bonds may provide that the bonds must contain a recital that they are issued pursuant to [sections 8 through 22]. The recital is conclusive evidence of the validity of the bonds and of the regularity of their issuance."

Insert: "NEW SECTION. Section 18. Liens arising from bonds. The resolution or resolutions authorizing the bonds must specify and define the revenue or portion of the revenue that is appropriated and pledged for the security and payment of the bond principal and interest and the relative security of liens on the revenue in favor of bonds of one or more series or issues, whether issued concurrently or at different times."

Insert: "NEW SECTION. Section 19. Details relating to revenue bonds. (1) Bonds authorized to be issued under [sections 8 through 22]:

- (a) must bear interest at a rate or rates not exceeding the limitation of 17-5-102;
- (b) may be issued in one or more series;
- (c) may bear a date or dates;
- (d) may mature at a time or times not exceeding 40 years from their respective dates of issue;
- (e) may be payable in a place or places;
- (f) may carry registration privileges;
- (g) may be subject to terms of redemption;
- (h) may be executed;
- (i) may contain terms, covenants, and conditions; and
- (j) may be in coupon or registered form, as provided by the initial resolution or subsequent resolutions.

(2) The regional resource authority may fix the minimum price for the bonds in an amount less than the principal amount of the bonds but not less than 97% of the principal amount if it determines that a sale at that price is in the best interests of the project."

Insert: "NEW SECTION. Section 20. Sale of bonds. (1) Bonds authorized to be issued under [sections 8 through 22] must be sold at a price not less than that prescribed by the governing body of the regional resource authority, plus interest to the date of delivery of the bonds.

(2) (a) The bonds may be sold at private sale to the United States or the state of Montana or any agency, instrumentality, or corporation of the United States or the state.

(b) Unless sold to the United States or the state of Montana or an agency, instrumentality, or corporation of the United States or the state, the bonds must be sold at public sale after notice of the sale."

Insert: "NEW SECTION. Section 21. Notice of sale of bonds. The notice of sale of bonds required by [section 20(2)(b)] must be published once at least 5 days prior to the sale in a newspaper of general circulation in the state, and the regional resource authority may publish the notice or summary of the notice in a financial newspaper published in the city of New York, Chicago, or San Francisco."

Insert: "NEW SECTION. Section 22. Interim receipts or certificates. Pending the preparation of the definitive bonds, interim receipts or certificates, in a form and with provisions that the governing body of the regional resource authority may determine, may be issued to the purchaser or purchasers of bonds sold pursuant to [sections 8 through

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

22]. The bonds and interim receipts or certificates are fully negotiable, as provided by Title 30, chapter 8."

Renumber: subsequent sections

18. Page 6, line 1.

Insert: "Section 24. Section 7-6-4020, MCA, is amended to read:

"7-6-4020. Preliminary annual operating budget. (1) A preliminary annual operating budget must be prepared for the local government.

(2) This part does not provide for the consolidation or reassignment, but does not prohibit delegation by mutual agreement, of any duties of elected county officials.

(3) (a) Before June 1 of each year, the county clerk and recorder shall notify the county commission and each board, office, regional resource authority, or official that they are required to file preliminary budget proposals for their component of the total county budget.

(b) Component budgets must be submitted to the clerk and recorder before June 10th or on a date designated by the county commission and must be submitted on forms provided by the county clerk and recorder.

(c) The county clerk and recorder shall prepare and submit the county's preliminary annual operating budget.

(d) Component budget responsibilities as provided in this subsection (3) include but are not limited to the following:

(i) The county surveyor or any special engineer shall compute road and bridge component budgets and submit them to the county commission.

(ii) The county commission shall submit road and bridge component budgets.

(iii) The county treasurer shall submit debt service component budgets.

(iv) The county commission shall submit component budgets for construction or improvements to be made from new general obligation debt.

(4) The preliminary annual operating budget for each fund must include, at a minimum:

(a) a listing of all revenue and other resources for the prior budget year, current budget year, and proposed budget year;

(b) a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year. All expenditures must be classified under one of the following categories:

(i) salaries and wages;

(ii) operations and maintenance;

(iii) capital outlay;

(iv) debt service; or

(v) transfers out.

(c) a projection of changes in fund balances or cash balances available for governmental fund types and a projection of changes in cash balances and working capital for proprietary fund types. This projection must be supported by a summary for each fund or group of funds listing the estimated beginning balance plus estimated revenue, less proposed expenditures, cash reserves, and estimated ending balances.

(d) a detailed list of proposed capital expenditures and a list of proposed major capital projects for the budget year;

(e) financial data on current and future debt obligations;

(f) schedules or summary tables of personnel or position counts for the prior budget year, current budget year, and proposed budget year. The budgeted amounts for personnel services must be supported by a listing of positions, salaries, and benefits for all positions of the local government. The listing of positions, salaries, and benefits is not required to be part of the budget document.

(g) all other estimates that fall under the purview of the budget.

(5) The preliminary annual operating budget for each fund for which the local government will levy an ad valorem property tax must include the estimated amount to be raised by the tax."

Insert: "Section 25. Section 7-6-4035, MCA, is amended to read:

"7-6-4035. Tax levies for boards and commissions -- bond exemption. (1) The proposed budget and mill levy for each board, commission, or other governing entity are subject to approval by the governing body.

(2) Except for a port authority created under Title 7, chapter 14, part 11, the taxes, revenue, or fees legally

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

pledged for the payment of debt or for the operations of a regional resource authority are not subject to approval by the governing body.

(3) Except for judgment levies under 2-9-316 or 7-6-4015, all tax levies are subject to 15-10-420."

Insert: "Section 26. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1)(a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

- (i) annexation of real property and improvements into a taxing unit;
- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

- (a) school district levies established in Title 20; ~~or~~
- (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703; or

(c) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; ~~or~~

(iv) a levy for the support of a study commission under 7-3-184; or

(v) a levy for the support or a newly established regional resource authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit."

Renumber: subsequent subsections

19. Page 6, line 6.

Strike: "7"

Insert: "22"

20. Page 6, line 7.

Strike: "7"

Insert: "22"

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

2/16/2009

SB 326, introduced bill, be amended as follows:

1. Page 5, line 5.

Strike: "12"

Insert: "3"

And, as amended, do pass. Report adopted.

SB 330, do pass. Report adopted.

SB 350, introduced bill, be amended as follows:

1. Page 2, line 23.

Following: "shall"

Insert: ", if medically indicated"

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

2/16/2009

SB 292, introduced bill, be amended as follows:

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

1. Page 1, line 14.

Strike: "a drill"

Insert: "an auger"

Strike: "exposed"

Insert: "prepared"

2. Page 1, line 15.

Strike: "surface"

Insert: "ratio of"

Following: "overburden"

Insert: "to coal does not allow the"

3. Page 1, line 16.

Strike: "becomes too thick for further"

Strike: "excavation by strip mining"

Insert: "recovery of coal"

4. Page 3, line 19 through line 20.

Strike: "strip" on line 19 through "mine" on line 20

Insert: "mining operation"

Strike: "unrecoverable" on line 20

Insert: "uneconomical to recover"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/14/2009

HB 160, introduced by Furey

HB 274, introduced by Hamilton

HB 278, introduced by McChesney

HB 285, introduced by Reinhart

HB 365, introduced by Roberts

HB 367, introduced by McGillvray

HB 400, introduced by Kottel

House joint resolution passed and transmitted to the Senate for concurrence:

2/14/2009

HJR 4, introduced by Vincent

Senate bill concurred in and returned to the Senate:

2/14/2009

SB 39, introduced by Juneau

SPECIAL ORDERS OF THE DAY

Senator Brown introduced the Pages for the week of February 16-21, 2009.

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

President Lincoln, also known as Harry Fritz of Missoula, addressed the Senate.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 21 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 119 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 142 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen,

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 174 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 280 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

SENATE JOURNAL
THIRTY-SIXTH LEGISLATIVE DAY - FEBRUARY 16, 2009

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 236 - Senator Wanzenried moved **SB 236** do pass. Motion carried as follows:

Yeas: Branae, R. Brown, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 27

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Peterson, Ripley, Tutvedt, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Barkus, Black, Branae, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 33

Nays: Bales, Balyeat, Barrett, Brenden, Brueggeman, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Peterson, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, February 17, 2009. Motion carried.

Senate adjourned at 3:04 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
February 17, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Gillan, excused. Quorum present.

BILLS AND JOURNALS:

2/17/2009

Correctly printed: **SB 46, SB 236, SB 330, SB 400, SB 405.**

Correctly engrossed: **SB 8, SB 292, SB 326, SB 350.**

Signed by the Speaker at 3:31 p.m., February 16, 2009: **SB 39, SB 115.**

Signed by the President at 3:55 p.m., February 16, 2009: **SB 39, SB 115.**

Delivered to the Governor for approval at 9:42 a.m., February 17, 2009: **SB 39, SB 115.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

2/16/2009

SB 151, introduced bill, be amended as follows:

1. Title, page 1, line 8 through line 9.

Strike: "EXPANDING" on line 8 through "CONTRACTS;" on line 9

2. Title, page 1, line 10 through line 11.

Strike: "REVISING DISCLOSURE" on line 10 through "BROKERS;" on line 11

3. Title, page 1, line 13 through line 15.

Strike: "REVISING PRACTICES" on line 13 through "BROKERS;" on line 15

4. Title, page 1, line 16.

Strike: "33-19-104,"

Strike: "33-20-1311,"

5. Title, page 1, line 17.

Strike: "33-20-1313,"

6. Page 1, line 22.

Strike: "contract"

7. Page 1, line 25.

Strike: "contract"

8. Page 1, line 27.

Strike: "contract"

9. Page 1, line 30.

Following: "₁"

Insert: "and"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

10. Page 2, line 1 through line 6.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

11. Page 2, line 11.

Strike: "contract"

12. Page 2, line 12.

Strike: "contract"

13. Page 2, line 18.

Strike: "contract"

14. Page 2.

Following: line 18

Insert: "(2) A person commits the act of insurance fraud or viatical settlement fraud by engaging in any transaction, act, practice, course of business, or course of dealing that involves a violation of insurable interest laws."

Renumber: subsequent subsections

15. Page 2, line 23.

Strike: "contract"

16. Page 2, line 27.

Strike: "contract"

17. Page 2, line 28.

Strike: "insurance fraud"

Insert: "a violation of this part"

18. Page 2, line 29.

Strike: the first "insurer," through "producer"

Insert: "person"

19. Page 4, line 6 through line 11.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

20. Page 4, line 12 through line 13.

Strike: ":" on line 12

Strike: "(a)" on line 13

Following: "settlements;" on line 13

Strike: "or"

21. Page 4, line 14 through line 15.

Strike: subsection (b) in its entirety

22. Page 5, line 10.

Strike: "contract"

23. Page 5, line 17.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "contract"

24. Page 5, line 19 through page 10, line 6.

Strike: section 5 in its entirety

Renumber: subsequent sections

25. Page 11, line 12 through page 15, line 20.

Strike: sections 7 and 8 in their entirety

Renumber: subsequent sections

26. Page 16, line 8 through page 17, line 25.

Strike: section 10 in its entirety

Renumber: subsequent sections

27. Page 18, line 20.

Strike: "[Sections 10 and 11] are"

Insert: "[Section 7] is"

28. Page 18, line 21.

Strike: "[sections 10 and 11]"

Insert: "[section 7]"

29. Page 18, line 29.

Strike: "[Sections 6 through 11] are"

Insert: "[Section 5] is"

And, as amended, do pass. Report adopted.

SB 192, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Strike: "EQUAL"

Insert: "AN"

2. Title, page 1, line 5.

Strike: "UNDER"

Insert: "BY ALLOWING POOLED RISK SAFETY GROUPS IN"

3. Title, page 1, line 6 through line 8.

Strike: "RELIEF" on line 6

Insert: "AN OPPORTUNITY FOR A RETURN ON PREMIUM BASED ON REDUCED LOSSES"

Following: "THAT" on line 6

Strike: "IMPLEMENT" on line 6 through "THAT" on line 8

4. Title, page 1, line 9 through line 10.

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "39-71-2315 " on line 9 through "39-71-2330," on line 10

Strike: "A TERMINATION"

Insert: "AN APPLICABILITY"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

5. Page 1, line 20.

Following: "businesses"

Insert: "; and

WHEREAS, the opportunity to pool risk in a group that has made a commitment to safety yields the potential to benefit small businesses by reducing losses and possibly generating a return on premium"

6. Page 1, line 24 through page 2, line 30.

Strike: section 1 through section 2 in their entirety

Insert: "NEW SECTION. Section 1. Workplace safety program. (1) An employer that is not eligible for the tier with the lowest-rated premium for workers' compensation purposes is eligible to join a state fund pooled risk safety group, as provided in [section 2], if the employer:

(a) adopts and maintains a written, comprehensive workplace safety program that has been in place for more than 1 year and that meets the criteria established by rule implementing Title 39, chapter 71, part 15.

(b) adopts transitional and return-to-work programs;

(c) has at least 3 years of experience without losses;

(d) uses available safety consultation services or programs offered by the department or the state fund. Safety consultation may be provided to individual employers or to groups. The department and the state fund shall notify each employer in a group, as provided in [section 2], regarding the availability of safety and return-to-work resources.

(e) complies with the terms and conditions of the state fund pooled risk safety group as provided in [section 2].

(2) The state fund and the department shall share information on workplace safety programs and transitional and return-to-work programs."

Insert: "NEW SECTION. Section 2. Pooled risk safety group. (1) The state fund may establish one or more groups of individual policies in a pooled risk safety group to promote safety as a way to reduce losses among members of the pooled risk safety group.

(2) Each member of a pooled risk safety group must be eligible as provided in [section 1] and must have an individual workers' compensation plan No. 3 policy. An individual policy may be included in only one group.

(3) The state fund shall annually establish the terms and conditions of the plan that defines the requirements of participation for a pooled risk safety group. The plan must include the criteria to be eligible for an aggregate return of premium and a method for apportioning the return of premium among members of the group.

(4) The aggregate record of the individual members of the pooled risk safety group is the basis for determining if the members of the pooled risk safety group qualify for a return on premiums."

7. Page 3, line 6.

Strike: "[Subject" through "premium"

Insert: "Premium"

8. Page 3, line 12.

Strike: "of 20" through "rating"

Insert: "that are not eligible for the tier with the lowest-rated premium for workers' compensation purposes"

9. Page 3, line 15 through line 16.

Strike: "and recognizing" on line 15 through "injury" on line 16

10. Page 3, line 17 through line 18.

Strike: "and may" on line 17 through "promotions" on line 18

11. Page 3, line 23 through page 7, line 4.

Strike: section 4 through section 7 in their entirety

Renumber: subsequent sections

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

12. Page 7, line 10.

Following: "date"

Insert: "-- applicability"

Following: "2009"

Insert: ", and applies to groups formed on or after July 1, 2010"

13. Page 7, line 12 through line 13.

Strike: section 10 in its entirety

And, as amended, do pass. Report adopted.

SB 234, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Following: "SECTIONS"

Insert: "33-1-102,"

2. Page 1, line 13.

Strike: "dependent"

Following: "child"

Insert: "18 years of age or younger"

3. Page 1, line 14.

Strike: "an individual"

Insert: "a child"

4. Page 1, line 23.

Following: "that are"

Insert: "medically"

Following: "develop"

Strike: ", maintain,"

5. Page 1, line 24.

Strike: "dependent"

6. Page 1, line 27.

Strike: "by a dietitian registered in this state or"

7. Page 1, line 28.

Strike: "nutritionist,"

8. Page 1, line 29 through page 2, line 3.

Strike: "applied behavior" on page 1, line 29 through "behavior" on page 2, line 3

Insert: "medically necessary interactive therapies derived from evidence-based research, including applied behavior analysis, which is also known as Lovaas therapy, discrete trial training, pivotal response training, intensive intervention programs, and early intensive behavioral intervention"

9. Page 2, line 4.

Following: "who" on line 4

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "has been"

Insert: "is licensed by the behavior analyst certification board or is"

10. Page 2, line 5 through line 6.

Strike: "qualified" on line 5 through "analysis" on line 6

Insert: "family support specialist with an autism endorsement"

11. Page 2, line 7.

Following: "(4)"

Insert: "(a)"

12. Page 2, line 8.

Following: "benefit of"

Insert: ":

(i)"

Following: "\$50,000 a year"

Strike: ". "

Insert: "for a child 8 years of age or younger; and

(ii) \$20,000 a year for a child 9 years of age through 18 years of age.

(b)"

13. Page 2, line 9.

Strike: "dependent"

14. Page 2, line 15 through line 18.

Following: "(6)"

Strike: "Upon request" on line 15 through "status." on line 18

Following: "may request"

Insert: "that the treating physician provide"

15. Page 2, line 20.

Strike: "frequency" through "updated."

Insert: "reasons the treatment is medically necessary. The treatment plan must be based on evidence-based screening criteria. The insurer may ask that the treatment plan be updated every 6 months."

16. Page 2.

Following: line 20

Insert: "(7) As used in this section, "medically necessary" means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a physician or psychologist licensed in this state and that will or is reasonably expected to:

(a) prevent the onset of an illness, condition, injury, or disability;

(b) reduce or improve the physical, mental, or developmental effects of an illness, condition, injury, or disability; or

(c) assist in achieving maximum functional capacity in performing daily activities, taking into account both the functional capacity of the recipient and the functional capacities that are appropriate for a child of the same age."

Renumber: subsequent subsections

17. Page 2.

Following: line 26

Insert: "Section 2. Section 33-1-102, MCA, is amended to read:

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

"33-1-102. Compliance required -- exceptions -- health service corporations -- health maintenance organizations -- governmental insurance programs -- service contracts. (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

- (a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;
- (b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and
- (c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations or to managed care community networks, as defined in 53-6-702, to the extent that the existence and operations of those organizations are governed by chapter 31 or to the extent that the existence and operations of those networks are governed by Title 53, chapter 6, part 7. The department of public health and human services is responsible to protect the interests of consumers by providing complaint, appeal, and grievance procedures relating to managed care community networks and health maintenance organizations under contract to provide services under Title 53, chapter 6.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) ~~This~~ Except as otherwise provided in Title 33, chapter 22, this code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) ~~This~~ Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) ~~This~~ Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code.""

Renumber: subsequent sections

18. Page 4, line 9.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "and"

19. Page 4, line 10.

Following: "~~and~~"

Insert: "; and"

20. Page 4, line 11.

Following: "~~autism~~"

Insert: "(g) autism"

Following: the first "."

Insert: "(7) Coverage for a child with autism who is 18 years of age or younger must comply with [section 1(3) through (5)] if the child is diagnosed with:
(a) autistic disorder;
(b) Asperger's disorder; or
(c) pervasive developmental disorder not otherwise specified."

21. Page 5, line 22.

Strike: "and"

22. Page 5, line 23.

Following: "~~and~~"

Insert: "; and"

23. Page 5, line 24.

Following: "~~autism~~"

Insert: "(g) autism"

24. Page 5, line 25.

Insert: "(7) Coverage for a child with autism who is 18 years of age or younger must comply with [section 1(3) through (5)] if the child is diagnosed with:
(a) autistic disorder;
(b) Asperger's disorder; or
(c) pervasive developmental disorder not otherwise specified."

25. Page 8, line 9.

Insert: "NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 356, introduced bill, be amended as follows:

1. Page 1, line 11.

Strike: "A"

Insert: "(a) Except as provided in subsection (1)(b), a"

2. Page 1, line 12.

Strike: "registered"

Insert: "titled"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

3. Page 1.

Following: line 13

Insert: "(b) This section does not apply to a person buying, selling, exchanging, accepting on consignment, or acting as a broker of a used manufactured home that is not titled in the person's name."

And, as amended, do pass. Report adopted.

SB 363, introduced bill, be amended as follows:

1. Page 4, line 6.

Strike: "employment of"

2. Page 4, line 6 through line 7.

Following: "person" on line 6

Strike: "to speak" on line 6 through "workshop" on line 7

Insert: "who performs educational services as a speaker"

3. Page 4, line 7.

Following: "institution"

Strike: " "

4. Page 4, line 8.

Strike: "individual"

Insert: "person and when the person receives less than \$100 a year from the institution"

And, as amended, do pass. Report adopted.

SB 375, do pass. Report adopted.

SB 395, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

2/16/2009

SB 263, introduced bill, be amended as follows:

1. Title, line 4.

Following: ""AN ACT"

Strike: "REVISING LAWS GOVERNING"

Insert: "ESTABLISHING A FLAT FEE FOR SERVICES PROVIDED BY"

Following: "OFFICE OF"

Insert: "STATE"

2. Title, line 5 through line 7.

Following: "DEFENDER;" on line 5

Strike: remainder of line 5 through "CASES;" on line 7

Insert: "REQUIRING PUBLIC DEFENDER COSTS TO BE INCLUDED IN A CRIMINAL JUDGMENT;"

3. Title, line 8.

Following: "OFFICE OF"

Insert: "STATE"

4. Title, line 8 through line 10.

Following: "COURT;" on line 8

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: remainder of line 8 through "COST-EFFECTIVE;" on line 10

5. Title, line 11.

Following: "46-8-113"

Strike: ",47-1-104, 47-1-105,"

Insert: "AND"

Following: "47-1-111,"

Strike: "47-1-201, 47-1-202, 47-1-215, AND 47-1-216,"

6. Page 1, line 17.

Following: "counsel --"

Strike: "bill of costs"

Insert: "fees for public defender costs -- inclusion in judgment"

7. Page 1, line 21 through line 22.

Following: "as" on line 21

Strike: remainder of line 21 through "47-1-104(5)."

Insert: "provided in subsection (5). The costs must be included in the judgment drafted by the county attorney."

8. Page 1, line 30.

Following: "payment."

Insert: "(5) The court shall include public defender costs in the judgment at the following rates:

- (a) misdemeanor guilty plea, other than a misdemeanor under 61-8-401, 61-8-406, or 61-8-410, \$250;
- (b) misdemeanor guilty plea under 61-8-401, 61-8-406, or 61-8-410, \$500;
- (c) misdemeanor trial, \$1,000;
- (d) felony guilty plea, \$1,000; and
- (e) felony trial, \$1,000 per day of trial."

9. Page 2, line 2 through page 5, line 30.

Strike: section 2 through section 3 in their entirety

Renumber: subsequent sections

10. Page 6, line 15.

Following: "an"

Strike: "a verified"

Insert: "an"

11. Page 7, line 16 through page 11, line 18.

Strike: section 5 through section 8 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 285, do pass. Report adopted.

SB 441, introduced bill, be amended as follows:

1. Title, line 6.

Following: "JUDGMENT DEBTOR"

Insert: "OR GARNISHEE"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

2. Page 3, line 1.

Following: "judgment debtor"

Insert: "or garnishee"

3. Page 3, line 17.

Strike: "necessaries"

Insert: "necessities"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

2/17/2009

SB 345, introduced bill, be amended as follows:

1. Page 2, lines 25 and 26.

Strike: "who" on line 25 through "regulations" on line 26

Insert: "within the proposed district"

2. Page 2, lines 27 and 28.

Strike: "area" on line 27 through "regulations" on line 28

Insert: "proposed district"

3. Page 3, line 16.

Strike: "(a)"

4. Page 3, line 24 through line 25.

Strike: subsection (6)(b) in its entirety

5. Page 4, line 10.

Strike: "1 year"

Insert: "6 months"

6. Page 4, line 11.

Strike: "The"

Insert: "Subject to the provisions of subsections (3)(c) and (3)(d), the"

7. Page 4, lines 22 through 24.

Strike: subsections (3)(a)(iv) and (3)(a)(v) in their entirety

Renumber: subsequent subsections

8. Page 4, lines 28 and 29.

Strike: ":", on line 28 through "(i)" on line 29

9. Page 4, line 30 through page 5, line 2.

Strike: "; and" on page 4, line 30 through "discretion" on page 5, line 2

10. Page 5, line 3.

Following: "(c)"

Insert: "(i)"

11. Page 5, lines 4 through 6.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "The" on line 4 through "adoption." on line 6

12. Page 5.

Following: line 6

Insert: "(ii) The interim zoning district or interim regulation remains in effect for 6 months from the date of adoption of the resolution under subsection (3)(c)(i). The board of county commissioners may adopt a resolution to extend the duration of the interim zoning district or interim regulation for an additional 1-year period if:

(A) not less than 60 days before conclusion of the 6-month period, the board holds a public hearing for which notice is provided as required in subsection (3)(a);

(B) at the public hearing the board gives the public an opportunity to be heard regarding extending the duration of the interim zoning district or interim regulation;

(C) for 30 days after the public hearing, the board accepts written protests to extending the duration of the interim zoning district or interim regulation as provided in subsection (3)(d); and

(D) protest is not sufficient to prevent extending the duration of the interim zoning district or interim regulation."

13. Page 5, line 7.

Strike: "adoption of the resolution to establish"

Insert: "the public hearing on extending the duration of"

14. Page 5, line 8.

Strike: "the creation"

Insert: "extending the duration"

15. Page 5, line 10.

Strike: "(A)"

16. Page 5, line 13.

Strike: "the establishment"

Insert: "extending the duration"

17. Page 5, line 14.

Strike: "resolution" through "void"

Insert: "board may not adopt a resolution to extend the duration of the interim zoning district or interim regulation and may not consider the area for inclusion in an interim zoning district or to be subject to an interim regulation for a period of 1 year"

18. Page 5, line 15 through line 19.

Strike: "(B)" on line 15 through "year." on line 19

And, as amended, do pass. Report adopted.

SB 390, do pass. Report adopted.

SB 392, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

2/17/2009

SB 303, introduced bill, be amended as follows:

1. Title, page 1, line 6.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Strike: "A"
Strike: "COUNCIL"
Insert: "COUNCILS"

2. Page 2, line 2.
Strike: line 2 in its entirety

3. Page 2, line 3.
Strike: "(c)"
Insert: "(b)"

4. Page 2, line 4.
Strike: "(d)"
Insert: "(c)"

5. Page 2, line 6.
Strike: "(e)"
Insert: "(d)"

6. Page 2, line 6.
Following: "means"
Insert: ", such as an evaluation of opportunities for storage of water by both private and public entities,"

7. Page 2, line 8.
Strike: "(f)"
Insert: "(e)"

8. Page 2, line 9.
Strike: "(g)"
Insert: "(f)"

9. Page 2, line 10 through line 11.
Strike: "that" on line 10 through "interests" on line 11
Following: "basin." on line 11
Insert: "(b) Each council consists of representatives of existing watershed groups or councils within the basin.
(c) The department shall attempt to ensure that each council is representative of all water interests in that basin."

10. Page 2, line 11.
Strike: "The"
Insert: "(d) Each"

11. Page 2, line 12.
Strike: "(b) The"
Insert: "(e) Each"

And, as amended, do pass. Report adopted.

SB 306, introduced bill, be amended as follows:

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

1. Title, page 1, line 5.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "76-3-103"

Insert: "AND 76-3-609"

2. Page 1, line 9 through line 10.

Strike: "A" on line 9 through "remainder" on line 10

Insert: "Only one remainder may be created from a subdivision or the use of an exemption under 76-3-201 or 76-3-207"

3. Page 1, line 12.

Strike: "immediate transfer"

Insert: "sale, lease, or creating a security interest under 76-3-201(1)(b)"

4. Page 1, line 13.

Strike: "1 year"

Insert: "18 months"

5. Page 1, line 21.

Strike: "subdivider resides"

Insert: "subdivider's primary residence is"

6. Page 1, line 22 through line 23.

Strike: "subdivider" through "remainder;" on line 23

Insert: "remainder is taxed for agricultural purposes under Title 76, chapter 2, part 9; or"

7. Page 1, line 24 through line 30.

Strike: ";" on line 24 through "or" on line 25

Insert: "."

8. Page 1, line 26 through line 27.

Strike: line 26 through line 27 in their entirety

9. Page 4.

Following: line 8

Insert: "Section 3. Section 76-3-609, MCA, is amended to read:

"76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of application -- governing body to adopt regulations. (1) Minor subdivisions must be reviewed as provided in this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

(2) If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201, ~~or~~ 76-3-207, or [section 1] since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

(a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review. The determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1) through (3).

(b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of the review

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

period, not to exceed 1 year.

(c) Except as provided in subsection (2)(d)(iii), an application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

(d) The following requirements do not apply to the first minor subdivision from a tract of record as provided in subsection (2):

- (i) the requirement to prepare an environmental assessment;
- (ii) the requirement to hold a hearing on the subdivision application pursuant to 76-3-605; and
- (iii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address the criteria in 76-3-608(3)(a).

(e) The governing body may adopt regulations that establish requirements for the expedited review of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed under the regulations:

- (i) 76-3-608(3); and
- (ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

(3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-614, and 76-3-620.

(4) The governing body may adopt subdivision regulations that establish requirements for review of subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision, as provided in subsection (2) and this chapter.

(5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter may occur only under those regulations in effect at the time that a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the period that the application is reviewed for required elements and sufficient information, the determination of whether the application contains the required elements and sufficient information must be based on the new regulations.""

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 360, do pass. Report adopted.

SB 437, do pass. Report adopted.

SB 451, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

2/17/2009

SB 399, introduced bill, be amended as follows:

1. Title, page 1, lines 5 through 7.

Strike: "REQUIRING" on line 5 through "PROVIDERS;" on line 7

Insert: "AND"

2. Title, page 1, line 7.

Following: "ESTABLISHING"

Insert: "DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES"

3. Title, page 1, line 8.

Following: "REQUIREMENTS"

Strike: "; through "MCA"

Insert: "REGARDING HIGH-RISK CHILDREN WITH MULTIAGENCY SERVICE NEEDS"

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

4. Page 1, lines 24 and 25.

Strike: "-- review of placements"

5. Page 1, line 25.

Strike: "(1)"

6. Page 1, line 30.

Strike: "(a)"

Insert: "(1)"

Renumber: subsequent subsections

7. Page 2, line 2 through line 20.

Strike: subsection (2) through subsection (4) in their entirety

8. Page 2, line 23.

Following: "requirements"

Insert: "regarding high-risk children with multiagency service needs"

9. Page 3, line 13 through page 7, line 4.

Strike: section 3 through section 5 in their entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 401, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/17/2009

SB 348, do pass. Report adopted.

SR 2, do pass. Preliminary report.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/16/2009

HB 74, introduced by Van Dyk

HB 230, introduced by McClafferty

HB 291, introduced by Sonju

HB 293, introduced by Hiner

HB 317, introduced by Furey

HB 328, introduced by MacLaren

HB 345, introduced by K. Peterson

HB 366, introduced by McGillvray

HB 378, introduced by Blasdel

HB 412, introduced by Wiseman

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 484, introduced by Balyeat, Hinkle, Black, Gebhardt, Barkus, Jackson, Bales, Shockley, Essmann, referred to

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Business, Labor, and Economic Affairs.

SB 485, introduced by Juneau, referred to Education and Cultural Resources.

SB 486, introduced by T. Brown, Arntzen, referred to Taxation.

SB 487, introduced by Shockley, referred to Local Government.

MOTIONS

Senator Essmann moved to re-refer SB 348 to State Administration. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Jent in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 213 - Senator Bales moved **SB 213** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 336 - Senator Balyeat moved **SB 336** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 40

Nays: Erickson, Gallus, Juneau, Kaufmann, Keane, Laible, Larsen, Moss, Squires, Williams.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Total 0

SB 344 - Senator J. Peterson moved **SB 344** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 376 - Senator Black moved **SB 376** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 19 - Senator J. Peterson moved **SJR 19** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Total 0

Excused: None.

Total 0

SB 51 - Senator Murphy moved **SB 51** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Branae, R. Brown, Brueggeman, Gebhardt, Gillan, Hamlett, Hinkle, Laslovich, Lewis, Moss, J. Tropila, M. Tropila.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 248 - Senator Brueggeman moved **SB 248** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved that SB 250 be passed for the day. Motion carried.

SB 271 - Senator Squires moved **SB 271** do pass. Motion carried as follows:

Yeas: Barrett, Branae, R. Brown, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Laslovich, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 26

Nays: Bales, Balyeat, Barkus, Black, Brenden, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle,

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

Jackson, Keane, Laible, Larsen, Lewis, McGee, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 331 - Senator Balyeat moved **SB 331** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 335 - Senator Balyeat moved **SB 335** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Keane, McGee, Moss.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Jent moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
THIRTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 17, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 236 passed as follows:

Yeas: Branae, R. Brown, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 27

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Peterson, Ripley, Tutvedt, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Senator Balyeat moved that **SB 484** be re-referred from Business, Labor, and Economic Affairs to State Administration. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Peterson announced the Senate would begin at 12:00 noon on Thursday and Friday, February 19-20, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, February 18, 2009. Motion carried.

Senate adjourned at 2:30 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
February 19, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan and Wanzenried, excused. Quorum present.

BILLS AND JOURNALS:

2/18/2009

Correctly printed: **SB 51, SB 213, SB 248, SB 271, SB 285, SB 331, SB 335, SB 336, SB 344, SB 348, SB 360, SB 375, SB 376, SB 390, SB 392, SB 395, SB 401, SB 437, SB 451, SB 484, SB 485, SB 486, SB 487, SJR 19.**

Correctly engrossed: **SB 151, SB 192, SB 234, SB 263, SB 303, SB 306, SB 345, SB 356, SB 363, SB 399, SB 441.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the twentieth, twenty-first, twenty-second, and twenty-third legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

2/18/2009

SB 257, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: ", REPAIRS, AND MAINTENANCE"

2. Title, page 1, line 8.

Strike: ", REPAIR, OR MAINTENANCE"

3. Page 2, line 17.

Strike: "a repair, or maintenance"

4. Page 3, line 12.

Strike: "repair, or maintenance"

5. Page 8, line 20.

Following: "applicability."

Insert: "(1)"

6. Page 8, line 21.

Strike: ", repairs, or maintenance"

7. Page 8, line 22.

Following: "2005"

Insert: ", and to the compliance year beginning January 1, 2009"

8. Page 8.

Following: line 22

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Insert: "(2) Notwithstanding the provisions of subsection (1), renewable energy credits associated with upgrades completed after January 1, 2005, may not be claimed for any period before [the effective date of this act]."

And, as amended, do pass. Report adopted.

SB 387, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

2/18/2009

SB 404, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

2/18/2009

SB 386, do pass. Report adopted.

SB 457, introduced bill, be amended as follows:

1. Page 1, line 27.

Following: "assurances"

Strike: "they have no authority or capability to make."

Insert: "are difficult to comply with; and"

2. Page 1, line 28.

Following: line 27

Insert: "WHEREAS, Montana has roads with outstanding qualifications for scenic-historic byway designation and these roads have significant need for new funding opportunities for project funding."

3. Page 2, line 2.

Following: "applications"

Insert: "submitted by the local government or governments of jurisdiction"

4. Page 2, line 12.

Following: "East Glacier;"

Strike: "and"

5. Page 2, line 13.

Following: "street"

Strike: "."

Insert: ";

6. Page 2, line 14.

Following: line 13

Insert: "(g) bureau of Indian affairs route 114 and county road 234; and
(h) Harding way highway from Butte to Whitehall."

7. Page 2, line 15 through page 3, line 25.

Strike: section 2 in its entirety

Insert: "**Section 2.** Section 60-2-602, MCA, is amended to read:

"60-2-602. Scenic-historic byways program -- rules. (1) The department shall adopt rules to effectively administer the scenic-historic byways program. The rules must include the criteria that will be considered for designating a road for inclusion in the scenic-historic byways program.

(2) In developing the criteria, to be included in the rules, for designating a road for inclusion in the scenic-historic byways program, the advisory council, commission, and department shall specifically address:

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

(a) factors that allow each locality choosing to participate in or seeking participation in the scenic-historic byways program the opportunity to:

- (i) enhance the experience of the traveling public;
- (ii) stimulate or allow for economic development and new marketing strategies; or
- (iii) preserve intrinsic resources for the benefit of future generations;

(b) a methodology by which a locality choosing to participate in or seeking participation in the scenic-historic byways program may participate in the national scenic byways program, described in section 1047 of Public Law 102-240;

(c) means by which a road may be excluded from designation as a scenic-historic byway by:

- (i) an incorporated municipality for a road or segment of a road within its jurisdiction; or
- (ii) a landowner for a road or segment of a road adjacent to the landowner's private property;

(d) factors to be considered in assessing the intrinsic, scenic, historic, recreational, cultural, archaeological, educational, or natural qualities of the road nominated for inclusion in the scenic-historic byways program;

(e) factors to be considered in a locality's corridor management plan, including that the plan:

(i) serves as a visioning tool to provide direction for enhancing and marketing the corridor, but not as a land management document, zoning tool or mandate, highway improvement scoping or prioritization document, or highway management document;

(ii) accommodates commerce and commercial vehicles and maintains a safe and efficient level of highway services;

(iii) protects private property rights, including assurances that the private property rights of a person who owns land adjacent to or visible from the road are not in any way diminished by the road being designated a scenic-historic byway or are accommodated through mutually agreeable compensation;

(iv) precludes the locality having adopted the corridor management plan from establishing goals or commitments outside the locality's jurisdiction; and

(v) has accommodated all jurisdictions affected or to be affected by the designation of a road as a scenic-historic byway; and

(f) procedures to ensure that localities choosing to participate in the scenic-historic byways program:

(i) may exclude from designation any segment of a highway that is inconsistent with the state's criteria for designating scenic-historic byways. Within an excluded segment, a locality may allow off-premises advertising in the form of billboards or painted signs, subject to applicable federal, state, or local laws. Within an excluded segment, a locality may allow off-premises advertising in the form of billboards or painted signs, subject to applicable federal, state, or local laws.

(ii) may use signage recognized as exceptions or as information signs in all areas along a designated route, provided that the signage complies with 23 U.S.C. 131, Title 60, chapter 5, part 5, Title 75, chapter 15, part 1, and all applicable state or locally adopted rules, requirements, and restrictions.""

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

2/18/2009

SB 430, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/17/2009

HB 163, introduced by Cohenour

HB 235, introduced by Kottel

HB 288, introduced by Kerns

HB 294, introduced by MacLaren

HB 324, introduced by Arntzen

HB 332, introduced by Getz

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 488, introduced by Windy Boy, referred to State Administration.

SB 489, introduced by Essmann, J. Peterson, Ripley, Gillan, Keane, Perry, Klock, Lake, Vincent, K. Peterson, McChesney, Glaser, Sonju, Smith, referred to Taxation.

SB 490, introduced by R. Brown, referred to Taxation.

SB 491, introduced by Lewis, referred to Taxation.

SB 492, introduced by Perry, referred to Judiciary.

SB 493, introduced by Larsen, Perry, Hansen, Murphy, Malek, referred to Business, Labor, and Economic Affairs.

SB 494, introduced by Windy Boy, referred to Business, Labor, and Economic Affairs.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 29, introduced by Moss, Shockley, referred to Judiciary.

SPECIAL ORDERS OF THE DAY

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried.

Senator Peterson moved that the Senate recess and proceed to the House of Representatives for Senator Max Baucus's address. Upon adjournment of the joint session, the Senate will resume. Motion carried.

After the Senate was introduced in the House chambers, President Story assumed the chair. Senator Peterson moved that the body resolve itself into a joint session for the purpose of receiving an address from U.S. Senator Max Baucus. Motion carried.

Senator Peterson moved that the President be authorized to appoint a committee of four to notify U.S. Senator Max Baucus that the House and Senate are in joint session and ready to receive his address. Motion carried.

President Story appointed Senator Brueggeman, Senator Williams, Representative Steenson, and Representative MacLaren, and the committee escorted the honored guests and U.S. Senator Max Baucus into the chambers. Senator Baucus delivered the following address:

Good afternoon.

Mr. Speaker. Mr. President. Members of the House and Senate. Visitors joining us in the gallery.

Distinguished guests:

- Lt. Governor Bohlinger
- State Auditor Monica Lindeen
- Superintendent Denise Juneau
- Secretary of State Linda McCullough
- Attorney General Steve Bullock
- Members of the Supreme Court
- Other elected officials joining us

But perhaps the most distinguished guest here today is the person who raised me. She taught me the values of hard work, faith, community and doing what's right. The best mother in the whole world. My mother, Jean Baucus. Hi Mom!

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

It's good to be back here. I have very fond memories of this chamber. I'm glad to see Representative Jopek is still sitting at my old desk. Thanks, Mike, for your continued service.

CONDOLENCES:

Looking out at many familiar faces, one that is sadly not here is our old friend, George Groesbeck. George was such a great guy. It's no surprise that he was liked by folks on both sides of the aisle. Just a solid Butte guy. His passing was a tragedy felt by all. We thank Art Noonan for stepping in to serve.

Another pillar who is no longer with us is Donna Metcalf. She was a true Montana woman, who we all loved and respected. She will be missed.

And finally, we were all shocked to learn last weekend of Crow Tribal Chairman Venne's passing. Carl was a dear friend of mine, a solid Montana leader who always fought for his people. Our thoughts and prayers are with his family and the Crow Nation.

A Defining Moment:

As we gather here today, we do so with a somber determination -- aware of the turmoil that faces our towns, our state, and our great nation. Montana and America face a defining moment.

I know you hear it when you go into coffee shops in Plains and Plentywood, and you see it when you pass by abandoned construction sites in Scobey and Somers.

But this isn't the first time our nation has been challenged. And each time we have risen with grit and determination.

When President Roosevelt looked upon tired, hungry people stricken by poverty he didn't see despair, but a challenge to the American spirit.

When President Kennedy looked upon the moon high in space he didn't see an insurmountable obstacle, but a challenge to American ingenuity.

When President Reagan looked upon a massive concrete wall denying people freedom, he didn't see defeat but a challenge to American fortitude.

And as citizens went back to work, as Neil Armstrong took one small step, as people united by freedom tore down the wall, our nation once again reminded the world why we are the land of the free and the home of the brave.

And today our nation faces yet another challenge.

And yet again, I am confident we will rise and history will note that we as Americans and Montanans met this challenge with a fierce determination.

Jobs Bill

There is no denying that our nation is facing the largest economic trial in 80 years. Since this recession began, across the country 3.6 million mothers and fathers, sisters and brothers, wives and husbands, have lost their jobs.

Companies that have been pillars to our economy have been forced to cut jobs in record numbers:

* Caterpillar announced it cut 20,000 jobs

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

* Microsoft has cut 5,000

* Even Harley Davidson had to let go more than 1,000 employees.

* And just yesterday, we were all stunned to learn that General Motors is laying off 47,000 people.

Did you know the number of people who attended the Super Bowl in Tampa was less than the number of people who lost their jobs the week before? That's more than 70,000 Americans.

And we have felt it right here in Montana, too. Recently we have lost:

* 1434 jobs from outfitters and hotels

* 985 manufacturing jobs

* 722 jobs from places like Applebees and Dairy Queen

* 711 jobs for carpenters, contractors, and engineers

* 452 jobs from places like Home Depot and Safeway.

And too many more to name.

Sometimes in public service we can become numb to numbers.

But I want you to think for a moment about a friend, a family member, or a neighbor who lost their job.

Think about how hard it must be knowing you just cashed your last paycheck – with a family at home who depends on you.

But, as legislators, we have the power to change that. Not only do we have the power, it's our obligation. The people we represent are counting on us. We are just the hired hands.

And we must act.

Representative Steenson recognized this with her Jobs Recovery Resolution here in the House. Cheryl, stand up so we can thank you. Stand up so the many Montanans who've lost their jobs can thank you.

11,000 Jobs:

I've been using my position to help meet this challenge as well.

I worked 'round the clock on the new jobs bill. That's why I was proud to join President Obama yesterday in Denver as he signed the American Recovery and Relief Act, the jobs bill.

Not everyone agreed on the final package. Negotiations were tense at times. At one point I thought Rahm Emanuel, the White House Chief of Staff, and I were going to have a fisticuffs.

But one thing is clear: The economic recovery and jobs bill will provide the jolt our economy needs. It is the single largest piece of economic legislation in the history of America.

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

This bill will pump \$626 million into our economy right here in Montana. Again, \$626 million for Montana.

That's almost half of the state's annual budget, as you well know.

But more importantly, it will protect or create 11,000 jobs here at home.

That means 11,000 of those friends, family members, or neighbors you talked to will have a job.

That means 11,000 families won't have to worry about how they will pay for groceries or the heating bill.

11,000 breadwinners won't have to toss and turn in bed worried about providing for the little ones sleeping in the next bedroom.

But mostly, it means that 11,000 people will feel the sense of dignity and accomplishment that comes with holding down a good-paying job.

In November, you -- well, at least 73 percent of you -- voted for me to continue representing you in our nation's capitol.

With that came a responsibility that I cannot deny, a sense of honor that I cannot describe, and a call to action that we cannot ignore. That call was to continue to create good-paying jobs and keep propelling our economy.

And, working with Senator Tester -- who is not only one of the best Senators in the Senate, but also one of the best people in the Senate -- we helped craft this jobs legislation that will give our state the jumpstart it so desperately needs.

We crafted legislation that will build roads and water projects. A jobs bill that will put shovels back to work.

We crafted legislation that will provide:

- * \$212 million to keep our highways safe.

- * \$39 million to provide clean water to rural areas

- * \$38 million to modernize more than 400 schools

We crafted legislation that will put more money in people's pockets through tax cuts that will help send more kids to college, reduce our dependence on foreign oil, and help people retire.

But more importantly we crafted legislation that is right for Montana.

Now we began the process of making sure those dollars are spent on Main Streets in Montana -- the right way..... right away.

It seems the million-dollar question -- well, actually the \$626-million question - on your minds is how these dollars are going to flow to Montana. As you know, those details are still being hammered out.

But I have no doubt that Montana -- all of you legislators, Governor Schweitzer, and our capable state agencies -- will hit the ground running.

While this common-sense bill was critically necessary, it is not a silver bullet. It's not a cure-all.

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

It's not perfect. But it's necessary. It's not sufficient, but necessary.

This bill represents one leg of a three-legged stool, the other two being addressing the housing crisis and freeing up credit. Today, we learn details of President Obama's plan to address the housing crisis. We all hope it works.

These measures, taken together, are a solid start. But there are still many long days ahead of us.

People might grow tired of being tired.

People might grow weary of being weary.

But I believe this is the beginning of the end. Things will only get better.

Like the miners of Butte, the farmers and ranchers who homesteaded here, or Lewis and Clark who prevailed through sheer willpower – so, too, will we.

We will prevail.

With the strain of our backs, the calluses of our hands, and the sweat of our brow, we will pass on an even better state to our children -- with hope and promise.

Our children. The next generation. That is why we enter public service. That is why parents work night shifts. So we can give our children a better life than we had.

CHIP

Amidst all of the dark clouds surrounding our economy, there is one bright ray of sunshine. And that's our effort to cover more kids under the Children's Health Insurance Program.

Health care is as essential to kids' futures as learning the ABCs. I'm sure if you asked any pediatrician, any teacher, any parent, they would tell you that a healthy child is more likely to get a good education. And a good education is the key to our economic future.

Earlier I talked about three great Presidents, three great individuals who changed our nation and our world at pivotal moments in history.

Yet, Roosevelt overcame polio, Kennedy battled a litany of illnesses his entire life; heck, even the Gipper probably had a few bumps and bruises along the way.

But they all were able to get the care they needed, and go on to accomplish great things.

But what if they wouldn't have had access to quality health care? How would our nation be different today?

Not a CHIP Fan:

You know, I have a confession to make. I'm not a fan of CHIP. . . .
I'm not a fan. . .

I'm a BIG fan. I'm a fanatical fan of CHIP.

CHIP is a real program that helps real families who really need it.

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Example. The Pitman family. Stephanie and her husband, Travis, are small business owners – they run a day care here in Helena. They work hard day in and day out, but don't make enough to afford private insurance for their kids.

Patterson who is 8 and Corbin who is 4.

Yet, because of CHIP their youngsters are able to get the check-ups that they need to grow healthy. Travis isn't here today---- he's managing their daycare business -- but Stephanie, Patterson and Corbin are here today. Stand up, guys, so we can thank you!

I helped create CHIP in 1997, and it has since become one of the most successful programs we have ever undertaken.

Since 1997, CHIP has helped 51,000 kids in Montana. And we're just getting started.

There are still 34,000 kids in Montana without health insurance. That is 34,000 too many.

The CHIP DEAL:

For those of you who were here last session, in 2007, I took my few minutes up here to offer you a deal.

I said that I would use my chairmanship of the Senate Finance Committee to expand CHIP in Washington -- if you would expand it here in Helena.

I was proud to learn that you upheld your end of the bargain in 2007, by expanding CHIP eligibility from 150 percent of the poverty level to 175 percent. For that, I congratulate you.

As for my end of the deal. Well.... it took a while.

There is the old saying that Rome wasn't built in a day. That was sure true for CHIP.

It took more than two years. It was vetoed twice. And let me tell you, it wasn't easy.

But, two weeks ago today, I stood proudly over President Obama's shoulder as he signed my bill to expand CHIP!

And as I watched him sign the legislation, I cannot describe the sense of pride that I felt. It's something that I've felt very few times in my life.

It wasn't pride of authorship. It was pride in knowing that thousands of children in Montana -- maybe even a future President of the United States -- will be able to live a healthy life because of the work we did.

As a public servant, that is the greatest reward there is. Bar none.

I-155

But as you know, we're not done yet. Last November, Montanans overwhelmingly approved Initiative 155, the healthy kids initiative. I voted for it, too, because once I-155 is fully implemented and funded, we will cut the number of uninsured Montanans by 90 percent.

To state it another way, we'll make sure that 30,000 more kids get health insurance. That's a VERY big deal.

I want to thank Representative Hunter for his great work on this. Chuck is working to fund the I-155 expansion. Thank you, Chuck.

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

While we have made good progress covering our children, we're not done yet. One of my top priorities is making sure that every American has access to quality, affordable health care. It is a noble goal that many of us share.

It is a goal deeply rooted in America: bring us your tired, bring us your poor.

As Montanans, we must strive to make sure that everyone has the ability to receive the care they need and deserve.

Earlier today, I sat down with both caucuses here at the Capitol. I impressed upon both that I want to work together on health care. It's not a partisan issue.

I'm glad to see that Senator Brown is providing leadership on health care. I look forward to partnering with him and all of you.

Like the old proverb says, a journey of a thousand miles begins with a single step. And expanding CHIP and initiative 155 are good first steps in the journey of providing health care coverage to every American.

But no journey can be completed alone. I cannot do it alone, you cannot do it alone. But together, we can.

In closing, I want to leave you with a quote from President Kennedy.

On a cold January morning in 1961, a young president bound up to a podium on the Capitol steps with a youthful vigor, and as millions tuned in with hopes of a better tomorrow, he told them all that "In your hands, my fellow citizens, more than mine, will rest the final success or failure of our course."

And I say to you all, the same thing today: In your hands, more than mine, rests the future of our state. Be wise. Be prudent. Serve those who have entrusted you. And as we come together, we can make Montana an even better place than it already is.

Thank you.

Upon adjournment of the joint session, the Senate reconvened.

Roll Call. All members present, except Senator Kaufmann, excused. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 368 - Senator Erickson moved **SB 368** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzonried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 371 - Senator Perry moved **SB 371** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 394 - Senator Bales moved **SB 394** do pass.

SB 394 - Senator Bales moved **SB 394**, second reading copy, be amended as follows:

1. Title, page 1, line 6.
Following: "BALLOT"
Insert: "IF CERTAIN CONDITIONS ARE MET"

2. Title, page 1, line 6.
Following: "13-19-101"
Insert: ", "
Strike: "AND"
Following: "13-19-104,"
Insert: "13-19-202, AND 13-19-205,"

3. Page 2, line 7.
Following: line 6
Insert: **Section 3.** Section 13-19-202, MCA, is amended to read:

"13-19-202. Initiation by governing body. (1) A political subdivision may, by resolution of the governing body addressed to the election administrator, request that a particular election be conducted under the provisions of this chapter.

(2) Prior to requesting that a mail ballot be used for a state or federal election pursuant to subsection (1), the governing body shall hold a public hearing on the resolution at least 90 days and no later than 135 days before election day.

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

~~(2)~~(3) No later than 70 days before election day, the governing body shall transmit its request to the election administrator, who shall determine whether it is economically and administratively feasible to conduct the requested election by mail ballot.

~~(3)~~(4) Except as provided in 13-19-204, the decision to conduct an election under the provisions of this chapter is within the sole discretion of the election administrator.

~~(4)~~(5) Within 5 days after receiving a request, the election administrator shall respond in writing, stating that the request is either granted or denied for reasons specified. If granted, the election administrator shall prepare a plan as provided in 13-19-205."

Insert: Section 4. Section 13-19-205, MCA, is amended to read:

"13-19-205. Written plan for conduct of election -- amendments -- approval procedures. (1) The election administrator shall prepare a written plan, including a timetable, for the conduct of the election and shall submit it to the secretary of state and the governing body concerned at least 60 days prior to the date set for the election.

(2) The plan must:

(a) include the location of:

(i) planned dropoff sites for ballots and a description of any other voter services to be provided at those sites;
and

(ii) any accessible dropoff sites that would include the use of specialized voting equipment designed to accommodate physically disabled voters; and

(b) identify any specific effort designed to increase or enhance the ability of a person to participate in the election.

~~(2)~~(3) The plan may be amended by the election administrator any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes. Only the governing body concerned must be notified of any changes to information required in subsection (2).

~~(3)~~(4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

~~(4)~~(5) When the written plan has been approved, the election administrator shall proceed to conduct the election according to the approved plan."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Erickson, Gallus, Juneau, Kaufmann, Keane, Moss, Shockley, M. Tropila, Wanzenried.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 394 - Senator Bales moved **SB 394**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 31

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Nays: Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 51 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.

Total 38

Nays: Branae, Brueggeman, Hamlett, Hinkle, Laslovich, Lewis, Moss, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 213 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Excused: None.
Total 0

SB 248 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 271 passed as follows:

Yeas: Bales, Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke.
Total 27

Nays: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Perry, Ripley, Tutvedt, Wanzenried, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 331 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Total 0

Excused: None.

Total 0

SB 335 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Keane, Moss, Williams.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 336 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Erickson, Juneau, Kaufmann, Laible, Larsen, Moss, Stewart-Peregoy, Williams.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 344 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 376 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 19 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Hamlett moved to change his vote on **SB 51** from yes to no. Motion carried.

Senator Steinbeisser moved that **SB 217** be re-referred from Agriculture, Livestock, and Irrigation to Finance and Claims. Motion carried.

SENATE JOURNAL
THIRTY-EIGHTH LEGISLATIVE DAY - FEBRUARY 19, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 12:00 p.m., Thursday, February 19, 2009. Motion carried.

Senate adjourned at 3:06 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
THIRTY-NINTH LEGISLATIVE DAY**

Helena, Montana
February 19, 2009

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Jent, Juneau, and Stewart-Peregoy, excused. Quorum present.

BILLS AND JOURNALS:

2/19/2009

Correctly printed: **SB 368, SB 371, SB 386, SB 387, SB 404, SB 430, SB 488, SB 489, SB 490, SB 491, SB 492, SB 493, SB 494, SJR 29.**

Correctly engrossed: **SB 257, SB 394, SB 457.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

2/19/2009

SB 300, introduced bill, be amended as follows:

1. Page 1, line 13.

Strike: "80"

Insert: "75"

And, as amended, do pass. Report adopted.

SB 322, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Following: "PROVISIONS;"

Insert: "EXEMPTING HOBBYIST APIARY SITES FROM REGISTRATION PROVISIONS;"

2. Page 2, line 25.

Strike: "A"

Insert: "Except as provided in 80-6-114, a"

3. Page 6, line 3.

Strike: "The"

Insert: "Except for a hobbyist apiary site, the"

4. Page 9, line 18.

Following: "**Hobbyist apiary site**"

Insert: "-- voluntary"

Following: "**registrations.**"

Insert: "(1) A hobbyist apiary site is exempt from the registration provisions of this part, but a hobbyist beekeeper may voluntarily register with the department under this section. A hobbyist beekeeper voluntarily registering a site shall pay any required registration fee but is not required to reregister pursuant to 80-6-102."

Renumber: subsequent subsections

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

5. Page 9, line 26 through page 10, line 1.

Strike: subsection (d) in its entirety

6. Page 10, line 17.

Following: "is registered"

Insert: "or the owner of an unregistered hobbyist apiary site"

7. Page 11, line 20.

Strike: "compliance agreement"

Insert: "a certificate of health that allows for seasonal transportation of bees and beekeeping equipment into Montana without inspection"

8. Page 13, line 16.

Strike: "\$2,500"

Insert: "\$25,000"

And, as amended, do pass. Report adopted.

SJR 20, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

2/19/2009

SR 4, do pass. Report adopted.

SR 5, do pass. Report adopted.

SR 6, do pass. Report adopted.

SJR 25, introduced joint resolution, be amended as follows:

1. Page 1, line 9.

Following: "economic"

Strike: "and agricultural"

2. Page 1, line 12.

Following: "care,"

Strike: "and"

Following: "educational resources"

Insert: ", and agricultural market services"

3. Page 1, line 14.

Following: "timber,"

Strike: "and"

Following: "clean water"

Insert: ", and access to hunting, fishing, open space, and recreation"

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

2/18/2009

HB 13, be concurred in. Report adopted.

HJR 8, be amended as follows:

1. Page 1, line 17 through line 19.

Strike: "WHEREAS," on page 17 through "; AND" on line 19

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

2. Page 1, line 26.

Following: "CONSTRUCTION"

Strike: ", OPERATION, AND MAINTENANCE OF"

Insert: "of the \$700,000 building for"

3. Page 2.

Following: line 7

Insert: "(2) That the Legislature authorizes construction of a \$700,000 building for the Richland County Extension Office if, in addition to the \$700,000 for construction, an endowment of \$700,000 is received by the Board of Regents to cover future operations and maintenance costs of the Richland County Extension Office; and"

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

2/19/2009

SB 221, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "MAY"

Insert: "MUST"

2. Page 1, line 30.

Following: "animals"

Insert: ", a first or subsequent offense of companion animal hoarding,"

Following: the second "or"

Strike: "of"

3. Page 2, line 16.

Following: "(d)"

Strike: "may"

Insert: "shall"

4. Page 2, line 17.

Following: "treatment"

Strike: ", at the person's expense, "

5. Page 3, line 1.

Strike: "20"

Insert: "10"

6. Page 3, line 2.

Following: ";"

Insert: "and"

7. Page 3, line 3.

Following: "environment"

Strike: "; and"

Insert: "."

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

8. Page 3, line 4 through line 6.

Strike: subsection (D) in its entirety

9. Page 3, line 8.

Following: "racess"

Insert: "unless the facilities meet the elements of subsection (5)(a)(i)"

10. Page 3, line 9.

Strike: subsection (iii) in its entirety

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

2/19/2009

SB 231, do pass. Report adopted.

SB 305, introduced bill, be amended as follows:

1. Title, line 5 through line 7.

Strike: "REMOVING" on line 5 through "INCLUDING" on line 7

Insert: "PROVIDING"

Following: "ESTABLISHED"

Insert: "SUBDIVISION REVIEW"

2. Title, line 9.

Strike: "76-3-501" through "76-3-625,"

Insert: "76-3-510, 76-3-604,"

3. Page 1, line 25 through page 14, line 4.

Strike: everything after the enacting clause

Insert: "**Section 1.** Section 76-3-510, MCA, is amended to read:

"76-3-510. Payment for extension of capital facilities. (1) A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

(2) All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required."

Insert: "**Section 2.** Section 76-3-604, MCA, is amended to read:

"76-3-604. Review of subdivision application -- review for required elements and sufficiency of information. (1) (a) Within 5 working days of receipt of a subdivision application submitted in accordance with any deadlines established pursuant to 76-3-504(3) and receipt of the review fee submitted as provided in 76-3-602, the reviewing agent or agency shall determine whether the application contains all of the listed materials as required by 76-3-504(1)(a) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that elements are missing from the application, the reviewing agent or agency shall identify those elements in the notification.

(2) (a) Within 15 working days after the reviewing agent or agency notifies the subdivider or the subdivider's agent that the application contains all of the required elements as provided in subsection (1), the reviewing agent or agency shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of this chapter and the local

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

regulations adopted pursuant to this chapter and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that information in the application is not sufficient to allow for review of the proposed subdivision, the reviewing agent or agency shall identify the insufficient information in its notification.

(c) A determination that an application contains sufficient information for review as provided in this subsection (2) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the reviewing agent or agency or the governing body to request additional information during the review process.

(3) The time limits provided in subsections (1) and (2) apply to each submittal of the application until:

(a) a determination is made that the application contains the required elements and sufficient information; and

(b) the subdivider or the subdivider's agent is notified.

(4) After the reviewing agent or agency has notified the subdivider or the subdivider's agent that an application contains sufficient information as provided in subsection (2), the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60 working days, based on its determination of whether the application conforms to the provisions of this chapter and to the local regulations adopted pursuant to this chapter, unless:

(a) the subdivider and the reviewing agent or agency agree to an extension or suspension of the review period, not to exceed 1 year; or

(b) a subsequent public hearing is scheduled and held as provided in 76-3-615.

(5) If the governing body fails to comply with the time limits under this section, the governing body shall pay to the subdivider a financial penalty of \$50 per lot per month or a pro rata portion of a month, not to exceed the total amount of the subdivision review fee collected by the governing body for the subdivision application, until the governing body denies, approves, or conditionally approves the subdivision.

~~(5)(6)~~ If the governing body denies or conditionally approves the proposed subdivision, it shall send the subdivider a letter, with the appropriate signature, that complies with the provisions of 76-3-620.

~~(6)(7)~~ (a) The governing body shall collect public comment submitted at a hearing or hearings regarding the information presented pursuant to 76-3-622 and shall make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat.

(b) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the governing body to the:

(i) reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and

(ii) local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

~~(7)(8)~~ (a) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body may require approval by the department of environmental quality as a condition of approval of the final plat.

(b) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body may condition approval of the final plat upon the subdivider demonstrating, pursuant to 76-3-622, that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.

~~(8)(9)~~ (a) Review and approval, conditional approval, or denial of a proposed subdivision under this chapter may occur only under those regulations in effect at the time a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the review periods provided in subsections (1) and (2), the determination of whether the application contains the required elements and sufficient information must be based on the new regulations."

Insert: "Section 3. Section 76-4-125, MCA, is amended to read:

"76-4-125. Review of subdivision application -- land divisions excluded from review. (1) Except as

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing authority. The review by the reviewing authority must be as follows:

(a) At any time after the developer has submitted an application under the Montana Subdivision and Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must include preliminary plans and specifications for the proposed development, whatever information the developer feels necessary for its subsequent review, any public comments or summaries of public comments collected as provided in 76-3-604~~(6)~~(7), and information required by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the application. If the proposed development includes onsite sewage disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.

(b) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision on the proposed subdivision within 60 days after the submission of a complete application and payment of fees to the reviewing authority unless an environmental impact statement is required, at which time this deadline may be increased to 120 days. The reviewing authority may not request additional information for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the department approves the subdivision, the department shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the exclusions cited in 76-3-201 and 76-3-204;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter.

(3) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the remainder referenced in subsection (2)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield."

Insert: "NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

SB 310, introduced bill, be amended as follows:

1. Page 2, line 25 through line 27.

Strike: "a waiver" on line 25 through "district." on line 27

Insert: "that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 15 years after the date that the final subdivision plat is filed with the county clerk and recorder."

And, as amended, do pass. Report adopted.

SB 369, introduced bill, be amended as follows:

1. Page 1, line 24.

Following: "days of"

Insert: "the"

Following: "notification"

Insert: "required under this subsection"

And, as amended, do pass. Report adopted.

SB 448, introduced bill, be amended as follows:

1. Title, line 5 through line 7.

Strike: "ALLOWING IMPOSITION" on line 5 through "SECURITY;" on line 7

2. Page 1, line 30 through page 2, line 4.

Strike: subsection (5) in its entirety

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

2/19/2009

SB 94, do pass. Report adopted.

SB 396, introduced bill, be amended as follows:

1. Page 1, line 10 through line 22.

Strike: subsection (1) in its entirety

Insert: "(1) An appropriator may change the point of diversion or combine points of diversion of surface water appropriation rights without the prior approval of the department for the purpose of replacing a point of diversion if:

(a) there are no other changes to the water right;

(b) the amount of water diverted is not increased;

(c) there are not points of diversion or intervening water rights between the existing point of diversion and the new point of diversion or the appropriator obtains written waivers from all intervening water right holders;

(d) the new point of diversion is on the same source and within the same reach of stream owned by or under the control of the appropriator; and

(e) the appropriator can show that the existing point of diversion has been used in the 10 years prior to the notice for the change in point of diversion."

2. Page 1, line 23.

Following: "if"

Insert: "the department determines that"

3. Page 1, line 24.

Following: "met"

Strike: "."

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Insert: "and the appropriator has submitted a notice in accordance with 85-2-402(18). The department may inspect the diversion to confirm the criteria under subsection (1) of this section."

4. Page 1, line 25 through line 26.

Strike: subsection (3) in its entirety

Insert: "(3) (a) An appropriator may file a complaint with the department alleging that the change in point of diversion will adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under Title 85, chapter 2, part 3.

(b) If the department determines after a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the change or make the change subject to terms, conditions, restrictions, or limitations that it considers necessary to protect the rights of other appropriators.

(c) The burden of proof at the hearing is on the appropriator changing the point of diversion."

5. Page 8.

Following: line 4

Insert: "(18) (a) For a change in a point of diversion in accordance with [section 1], after the change in the point of diversion for an appropriation right is made, the appropriator shall file a change of appropriation right notice on a form provided by the department.

(b) The department shall review the notice to determine if the notice is correct and complete.

(c) The department may not issue an authorization of a change in appropriation right for the point of diversion until a correct and complete notice has been filed with the department and the department determines that the criteria under [section 1] are met.

(d) The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and complete notice within 30 days of notification of defects or within a further timeframe determined by the department, not to exceed 6 months."

And, as amended, do pass. Report adopted.

SB 417, introduced bill, be amended as follows:

1. Page 2, line 8.

Following: "~~decisionmaking~~"

Insert: "and in decisionmaking not related to the issuance, denial, modification, or conditioning of a permit or an authority to act"

2. Page 2, line 14.

Following: "~~decisionmaking~~"

Insert: "in decisionmaking not related to the issuance, denial, modification, or conditioning of a permit or an authority to act"

3. Page 7, line 20.

Strike: "If"

Insert: "(a) Except as provided in subsection (7)(b), if"

4. Page 7.

Following: line 23

Insert: "(b) Subsection (7)(a) does not apply to a permit granted under Title 75, chapter 2, or under Title 82, chapter 4, parts 1 and 2."

And, as amended, do pass. Report adopted.

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):
SB 432, introduced bill, be amended as follows:

2/19/2009

1. Page 1, line 21.
Strike: ", by"
Insert: "instituted a"
Strike: ", ensured"
Insert: "requiring"

2. Page 1, line 22.
Strike: "that those"
Following: "services"
Insert: "to"

And, as amended, do pass. Report adopted.

SJR 26, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):
SB 199, introduced bill, be amended as follows:

2/19/2009

1. Title, line 5.
Strike: "CREATING" through "COUNCIL;"

2. Page 1.
Following: line 19

Insert: "WHEREAS, the Try Another Way State Employees Task Force was formally established by Executive Order No. 6-94 on March 30, 1994, with the mission "to inspire state employees to be more efficient in their work day travel by promoting and facilitating walking, biking, carpooling, vanpooling and public transportation" to and from work; and

WHEREAS, the Try Another Way State Employees Task Force is composed of volunteer state employees appointed by their respective employer-agency; and

WHEREAS, the Try Another Way State Employees Task Force has worked toward fulfilling its mission by preparing and distributing to state employees information regarding the benefits of alternatives to single-occupant vehicle travel and available alternative transportation opportunities; distributing surveys; holding promotional events; developing reserved carpool parking spaces in the state capitol complex; developing park and carpool sites on routes into Helena; promoting and assisting with development of a commuter bus route to the capitol complex in Helena; and other similar activities; and

WHEREAS, the Try Another Way State Employees Task Force is available to continue to prepare and distribute to state agencies, for dissemination to each agency's employees, information regarding the benefits of alternatives to single-occupant vehicle travel and available alternative transportation opportunities; and

WHEREAS, the Try Another Way State Employees Task Force is available to provide guidance to state agencies in preparing travel reduction plans and encouraging employees to use alternative transportation to and from work; and"

3. Page 1, line 25 through page 2, line 21.
Strike: section 1 in its entirety
Renumber: subsequent sections

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

4. Page 2, line 25.

Strike: "to be" through "[section 1]"

5. Page 3, line 3.

Strike: "through 4"

Insert: "and 2"

6. Page 3, line 8 through line 12.

Strike: section 3 in its entirety

Renumber: subsequent sections

7. Page 3, line 15.

Strike: "the survey" through "(5)(b)]"

Insert: "any surveys regarding state employee commuting distributed by the try another way state employees task force"

8. Page 3, line 17.

Strike: "advisory council"

Insert: "try another way state employees task force"

9. Page 3, line 19.

Following: "measures"

Insert: "developed or received by the agency"

10. Page 3, line 24.

Strike: "through 4"

Insert: "and 2"

11. Page 3, line 25.

Strike: "through 4"

Insert: "and 2"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/18/2009

HB 273, introduced by O'Hara

HB 308, introduced by Augare

HB 321, introduced by Cohenour

HB 372, introduced by Wilmer

HB 384, introduced by Villa

HB 387, introduced by Reichner

HB 397, introduced by Kottel

HB 403, introduced by Kottel

HB 428, introduced by Pomnichowski

House joint resolution passed and transmitted to the Senate for concurrence:

2/18/2009

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

HJR 17, introduced by French

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 495, introduced by Story, referred to Taxation.

SB 496, introduced by J. Peterson, referred to Finance and Claims.

SB 497, introduced by Shockley, referred to Judiciary.

MOTIONS

Senator Branae moved to re-refer **SB 69** and **SB 70** from Education and Cultural Resources to Finance and Claims.
Motion carried.

(Senator Juneau present.)

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator M. Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SJR 22 - Senator Zinke moved **SJR 22** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 46 - Senator McGee moved **SB 46** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Mr. President.
Total 29

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Zinke.

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Total 19

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SJR 23 - Senator Moss moved **SJR 23** do pass. Motion **failed** as follows:

Yeas: Branae, T. Brown, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SJR 23 - Senator J. Peterson moved **SJR 23** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 21

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SB 216 - Senator Laslovich moved **SB 216** do pass.

SB 216 - Senator Laslovich moved **SB 216**, second reading copy, be amended as follows:

1. Title, page 1, line 10.

Following: "BELONGING;"

Strike: "AND"

2. Title, page 1, line 11.

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE"

3. Page 7, line 15.

Following: line 14

Insert: "NEW SECTION. **Section 4. Effective date -- applicability.** [This act] is effective July 1, 2009, and applies to school fiscal years beginning on or after July 1, 2010."

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, Juneau, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SB 216 - Senator Laslovich moved **SB 216**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Erickson, Hinkle, Juneau, Kaufmann, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SB 224 - Senator R. Brown moved **SB 224** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 36

Nays: Erickson, Gallus, Gillan, Hawks, Juneau, Kaufmann, Keane, Moss, Schmidt, Squires, M. Tropila, Wanzenried.

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Total 12

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

Senator Peterson moved that **SB 285** be passed for the day. Without objection, so ordered.

SB 323 - Senator Erickson moved **SB 323** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 45

Nays: Brenden, Esp, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SB 330 - Senator Moss moved **SB 330** do pass. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SB 360 - Senator Keane moved **SB 360** do pass.

SB 360 - Senator Keane moved **SB 360**, second reading copy, be amended as follows:

1. Title, page 1, line 5 through line 7.

Strike: "REQUIRING" on line 5 through "PROVISIONS;" on line 7

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

2. Title, page 1, line 7.

Strike: "SECTIONS"

Insert: "SECTION"

3. Title, page 1, line 8.

Strike: "75-20-215, AND 75-20-216,"

4. Page 4, line 2 through page 8, line 1.

Strike: section 2 through section 3 in their entirety

Renumber: subsequent sections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SB 360 - Senator Wanzenried moved **SB 360**, second reading copy, be amended as follows:

1. Page 2, line 28 through line 30.

Strike: "unless" on line 28 through ";" on line 30

Insert: ". Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as described in this subsection (8)(a)(iv) may not exceed a total of 10 miles in length or be more than 10% of the existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid sensitive areas or inhabited areas."

2. Page 3.

Following: line 19

Insert: "(10) "Sensitive areas" means government-designated areas that have been recognized for their importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks and historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or national parks, monuments, or historic sites."

Renumber: subsequent subsections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann,

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 360 - Senator Keane moved **SB 360**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Hansen.
Total 1

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 375 - Senator J. Peterson moved **SB 375** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 390 - Senator McGee moved **SB 390** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann,

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 392 - Senator Brueggeman moved **SB 392** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 395 - Senator Gebhardt moved **SB 395** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: Windy Boy.
Total 1

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 400 - Senator Laslovich moved **SB 400** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann,

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 401 - Senator Laslovich moved **SB 401** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 405 - Senator Moss moved **SB 405** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent, Stewart-Peregoy.
Total 2

SB 437 - Senator Perry moved **SB 437** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Lewis, McGee, Moss, Murphy,

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Balyeat, Barrett, Brenden, R. Brown, Hinkle, Jackson, Laible, Laslovich, Ripley, Tutvedt.

Total 10

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman M. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Bales moved to re-refer **SB 216**, just passed as amended on second reading, to Finance and Claims. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 368 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent, Stewart-Peregoy.

Total 2

SB 371 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

SENATE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 19, 2009

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Paired: Barkus, Esp, Aye; Jent, Stewart-Peregoy, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 12:00 p.m., Friday, February 20, 2009. Motion carried.

Senate adjourned at 2:20 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTIETH LEGISLATIVE DAY**

Helena, Montana
February 20, 2009

Senate Chambers
State Capitol

Senate convened at 12:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Jent, excused. Quorum present.

BILLS AND JOURNALS:

2/20/2009

Correctly printed: **SB 46, SB 94, SB 224, SB 231, SB 323, SB 330, SB 375, SB 390, SB 392, SB 395, SB 400, SB 401, SB 405, SB 437, SB 495, SB 496, SB 497, SJR 20, SJR 22, SJR 26, SR 4, SR 5, SR 6, HB 13.**

Correctly engrossed: **SB 199, SB 216, SB 221, SB 300, SB 305, SB 310, SB 322, SB 360, SB 369, SB 396, SB 417, SB 432, SB 448, SJR 25, HJR 8.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

2/20/2009

SB 286, introduced bill, be amended as follows:

1. Page 1, line 25.

Strike: "Title"

2. Page 2, line 24.

Following: "products"

Insert: "not provided for under 7 CFR, part 1000.40,"

3. Page 2, line 28.

Following: "~~department~~"

Insert: "department and"

4. Page 2, line 30.

Following: "state."

Insert: "The board shall conduct hearings and make determinations under this chapter and under board rules and orders promulgated pursuant to this chapter."

5. Page 3, line 2.

Following: "health."

Insert: "(2)"

Strike: "board"

Insert: "department"

6. Page 3, line 4.

Strike: "(2)"

Insert: "(3)"

Strike: "board shall investigate"

Insert: "department shall assist the board by investigating"

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

7. Page 3, lines 5 and 6.

Following: "state and" on line 5

Strike: "shall conduct" on line 5 through "board" on line 6

Insert: "by bringing proceedings to enforce the orders of the board. The department, in exercising its enforcement duties,"

8. Page 3, line 8.

Strike: "board"

Insert: "department"

9. Page 3, line 9.

Strike: "board" in two places

Insert: "department" in two places

10. Page 3.

Following: line 10

Insert: "(4) The department shall provide staff to the board as provided in 2-15-121 to assist in technical, enforcement, and regulatory activities."

11. Page 5, line 19.

Strike: the first "board"

Insert: "department"

12. Page 6, line 4.

Following: "board."

Insert: "A penalty may not be assessed until after the cause of the penalty has been upheld following the notice and hearing requirements of subsection (1)."

13. Page 9, line 13.

Following: "board."

Insert: "An enforcement action is subject to the provisions of [section 16]."

14. Page 10, line 6.

Strike: "board"

Insert: "department"

15. Page 10, line 7.

Strike: "board"

Insert: "department"

16. Page 10, line 10.

Following: "(1)"

Insert: "(a)"

17. Page 10, line 11.

Strike: "department"

Insert: "board"

18. Page 10.

Following: line 16

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Insert: "(b) The department and the board may request only the records necessary for establishing milk prices pursuant to this chapter. Records requested under this subsection (1) are confidential and may not be disclosed unless the public's right to know outweighs the licensee's privacy interests."

19. Page 12, line 4.

Insert: "NEW SECTION. **Section 16. Appeal of action or decision.** An entity receiving notice of a violation of a provision of this chapter may within 60 days of receiving the notice from the department or board submit a request to the board for a contested case proceeding pursuant to Title 2, chapter 4, part 6. Upon receiving a request, the board shall appoint a hearings examiner to conduct the hearing and issue a proposal for decision. The board shall issue a final decision within 90 days of receiving the proposal for decision."

Renumber: subsequent sections

20. Page 12, line 6.

Insert: "NEW SECTION. **Section 18. Codification instruction.** [Section 16] is intended to be codified as an integral part of Title 81, chapter 23, part 4, and the provisions of Title 81, chapter 23, part 4, apply to [section 16]."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 337, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "STUDY;"

Insert: "PROVIDING AN EXCEPTION;"

2. Page 2, line 10.

Following: "buffalo or bison"

Insert: "within the state"

3. Page 2, line 11.

Following: "study"

Insert: "unless the wild buffalo or bison are relocated to the national bison range at Moiese"

And, as amended, do pass. Report adopted.

SR 7, be adopted. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

2/19/2009

SB 388, introduced bill, be amended as follows:

1. Page 1, line 26.

Strike: "or"

2. Page 1.

Following: line 26

Insert: "(d) an apprenticeship program that is in compliance with Title 39, chapter 6; or"

Renumber: subsequent subsection

3. Page 1, line 27.

Strike: "the BEAR program"

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

4. Page 1, line 28.

Following: "representatives"

Insert: "of the BEAR program, the small business development centers, or the Montana manufacturing extension center at Montana state university-Bozeman"

5. Page 2, line 18.

Following: "department"

Insert: ", of a small business development center, or of the Montana manufacturing extension center at Montana state university-Bozeman"

6. Page 3, line 15.

Following: "programs"

Insert: ", small business development centers, or the Montana manufacturing extension center at Montana state university-Bozeman"

7. Page 3, line 18.

Following: the first "program"

Insert: ", a small business development center, or the Montana manufacturing extension center at Montana state university-Bozeman"

8. Page 4, line 12.

Following: "program"

Insert: ", a small business development center, or the Montana manufacturing extension center at Montana state university-Bozeman"

9. Page 4.

Following: line 30

Insert: "NEW SECTION. **Section 8. Contingent voidness.** If House Bill No. 2 or [LC 2314] is passed and approved but does not contain funding for an incumbent worker training program, then [this act] is void."

And, as amended, do pass. Report adopted.

SB 438, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

2/20/2009

SB 290, introduced bill, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "ALLOWING" on line 6 through "COUNCIL;" on line 7

2. Page 1, line 15.

Following: "energy"

Insert: "efficiency,"

3. Page 2, line 15.

Strike: "and"

4. Page 2.

Following: line 15

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Insert: "(vii) promoting alternative energy systems; and"

5. Page 2, line 16.

Strike: "(vii)"

Insert: "(viii)"

6. Page 3, line 7 through line 10.

Strike: "may" on line 7 through "necessary" on line 10

Insert: "shall use its interim budget, as allocated by the legislative council, and rely on the input of locally available experts and staff research"

And, as amended, do pass. Report adopted.

SB 403, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: "69-3-604,"

2. Page 1, line 28 through page 2, line 17.

Strike: section 2 in its entirety

Renumber: subsequent sections

3. Page 3, line 3.

Following: "facility"

Insert: "as defined in 69-3-601"

Strike: "produces" through "69-3-2003,"

Insert: "is an eligible renewable resource"

4. Page 3, line 16.

Following: "facility"

Insert: "as defined in 69-3-601"

Strike: "produces" through "69-3-2003,"

Insert: "is an eligible renewable resource"

5. Page 4, line 12.

Following: "facility"

Insert: "as defined in 69-3-601"

6. Page 4, line 12 through line 13.

Strike: "produces" on page 12 through "69-3-2003" on line 13

Insert: "is an eligible renewable resource"

7. Page 5, line 22.

Strike: "pursuant to 69-3-604"

Insert: "as defined in 69-3-601"

8. Page 5, line 28.

Strike: "pursuant to 69-3-604"

Insert: "as defined in 69-3-601"

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

9. Page 6, line 2 through line 3.

Strike: "Unless" on line 2 through "contracts" on line 3

Insert: "Contracts"

10. Page 6, line 6 through line 7.

Strike: "Unless" on page 6 through "contracts" on line 7

Insert: "Contracts"

11. Page 6, line 9.

Strike: "pursuant to 69-3-604"

Insert: "as defined in 69-3-601"

12. Page 7, line 6.

Strike: "4"

Insert: "3"

And, as amended, do pass. Report adopted.

SB 424, introduced bill, be amended as follows:

1. Page 2, line 20.

Strike: the second "a"

Insert: "the"

Following: "brand"

Insert: "of a"

And, as amended, do pass. Report adopted.

SB 449, do pass. Report adopted.

SB 475, introduced bill, be amended as follows:

1. Page 1, line 12.

Strike: "70"

Insert: "77"

2. Page 1, line 15.

Strike: "a description of each tract"

Insert: "the number of tracts in each county"

3. Page 1, line 17.

Strike: "more"

Insert: "less"

4. Page 1, line 18.

Strike: "not more than"

Insert: "between"

Following: "days"

Insert: "and 35 days"

5. Page 1, line 21.

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Strike: "a description and an area map"

Insert: "the number"

Following: "county"

Insert: "and notice that a description and maps of tracts nominated are available on the department's website"

6. Page 1.

Following: line 21

Insert: "(5) The department shall publish on its website a description and maps of all tracts to be offered for sale."

Renumber: subsequent subsections

7. Page 1, line 22.

Strike: "(5)(b)"

Insert: "(6)(b)"

Strike: "certified"

Insert: "first-class"

8. Page 1, line 25.

Strike: "(5)(a)"

Insert: "(6)(a)"

9. Page 1, line 27.

Strike: "(5)"

Insert: "(6)"

And, as amended, do pass. Report adopted.

SJR 28, introduced joint resolution, be amended as follows:

1. Page 1, line 16.

Strike: "Montana's" through "proposed"

Insert: "Montana Integrated Waste Management Act proposes"

2. Page 1, line 17.

Strike: "17%" through "2020"

Insert: "19% by 2011 and 22% by 2015"

3. Page 1, line 18 through line 21.

Following: "composting" on line 18

Strike: "; and" on line 18 through "directive" on line 21

And, as amended, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

2/20/2009

SB 183, introduced bill, be amended as follows:

1. Title, page 1, line 13.

Strike: "AND A TERMINATION DATE"

2. Page 4, line 12.

Strike: subsection (e) in its entirety

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Renumber: subsequent subsections

3. Page 6, line 30.

Following: "department"

Insert: "of justice"

4. Page 7, line 21.

Following: "whether"

Insert: "the methodologies and procedures used by state agencies to determine"

5. Page 7, line 22 through line 24.

Strike: "accurate" on line 22 through "auditor" on line 24

Insert: "reasonable"

6. Page 8, line 7.

Following: "department"

Insert: "of justice"

7. Page 15, line 7.

Following: "effective"

Insert: ":

(a)"

Following: "on passage and approval"

Strike: "."

Insert: "if the gray wolf in Montana is on the federal endangered species list and a decision to delist the gray wolf in Montana has not been published in the federal register so that it will become effective within 30 days; or

(b) upon the issuance of a court order that results in the gray wolf in Montana remaining on or being placed on the federal endangered species list. If this action occurs, the department of fish, wildlife, and parks shall notify the code commissioner on the date that the action occurred."

8. Page 15, line 12.

Strike: "termination -- contingent"

9. Page 15, line 15.

Strike: "terminates"

Insert: "is suspended"

And, as amended, do pass. Report adopted.

SB 425, introduced bill, be amended as follows:

1. Page 1, line 12.

Strike: "primary"

2. Page 1, line 13.

Following: "populations"

Insert: "with minimal impact on cold water fish populations"

3. Page 2, line 2.

Following: "87-3-236"

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Insert: ", revenue in the general license account,"

Strike: "other"

Insert: "federal"

4. Page 2, line 8.

Strike: "primary"

5. Page 2, line 9.

Following: "populations"

Insert: "with minimal impact on cold water fish populations"

6. Page 2, line 28.

Following: "~~87-3-236~~"

Insert: "revenue in the general license account or"

Following: "any"

Insert: "federal"

And, as amended, do pass. Report adopted.

SB 436, do pass. Report adopted.

SB 470, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

2/19/2009

SB 288, introduced bill, be amended as follows:

1. Title, page 1, line 4 through line 8.

Strike: "CLARIFYING" on line 4 through "DATE" on line 8

Insert: "REQUIRING A WRITTEN UNDERTAKING TO BE GIVEN BY A PARTY REQUESTING A HEARING OR A STAY BEFORE A COURT OR THE BOARD OF ENVIRONMENTAL REVIEW; AMENDING SECTIONS 75-2-103, 75-2-211, AND 75-5-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

2. Page 1, line 12 through page 2, line 16.

Strike: section 1 in its entirety

Renumber: subsequent sections

Insert: "NEW SECTION. Section 1. Energy development project -- hearing and procedures. (1) If the person requesting the hearing is not the applicant or permittee of an energy development project, the board or the district court shall require a written undertaking to be given by the party requesting the hearing for the payment of costs and damages incurred by the permit applicant and its employees unless the board or the district court determines that issuance of the permit was prohibited by statute.

(2) When requiring an undertaking, the board or the district court shall use the same procedures and limitations that are provided in 27-19-306(2) through (4) for undertakings on injunctions.

(3) If the person requesting the hearing is not the applicant or permittee and a stay, an injunction, or a restraining order is not requested, the board or the district court shall require a written undertaking pursuant to the provisions of this section."

Insert: "**Section 2.** Section 75-2-103, MCA, is amended to read:

"75-2-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advisory council" means the air pollution control advisory council provided for in 2-15-2106.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

substances, or any combination thereof.

(3) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere, including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42 U.S.C. 7401, et seq.

(4) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere with the enjoyment of life, property, or the conduct of business.

(5) "Associated supporting infrastructure" means:

(a) electric transmission and distribution facilities;

(b) pipeline facilities;

(c) aboveground ponds and reservoirs and underground storage reservoirs;

(d) rail transportation;

(e) aqueducts and diversion dams;

(f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or

(g) other supporting infrastructure that is necessary for an energy development project.

~~(5)~~(6) "Board" means the board of environmental review provided for in 2-15-3502.

~~(6)~~(7) (a) "Commercial hazardous waste incinerator" means:

(i) an incinerator that burns hazardous waste; or

(ii) a boiler or industrial furnace subject to the provisions of 75-10-406.

(b) Commercial hazardous waste incinerator does not include a research and development facility that receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste treatment remediation technologies.

~~(7)~~(8) "Department" means the department of environmental quality provided for in 2-15-3501.

~~(8)~~(9) "Emission" means a release into the outdoor atmosphere of air contaminants.

(10) (a) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

(i) generating electricity;

(ii) producing gas derived from coal;

(iii) producing liquid hydrocarbon products;

(iv) refining crude oil or natural gas;

(v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5;

(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant to 15-32-701; or

(vii) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

(b) The term does not include a nuclear facility as defined in 75-20-1202.

~~(9)~~(11) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant to Title 75, chapter 2, 5, 10, or 11.

~~(10)~~(12) "Hazardous waste" means:

(a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

(b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

~~(11)~~(13) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of removal, destruction, disposal, or volume reduction of any portion of the input material.

(b) Incinerator does not include:

(i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

(ii) space heaters that burn used oil;

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

(iii) wood-fired boilers; or

(iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

~~(12)~~(14) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals. The term includes:

- (a) cultures and stocks of infectious agents;
- (b) human pathological wastes;
- (c) waste human blood or products of human blood;
- (d) sharps;
- (e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed to infectious agents during research;
- (f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and
- (g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions from humans or animals.

~~(13)~~(15) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

- (i) equipment associated with the well and used for the purpose of producing, treating, separating, or storing oil, natural gas, or other liquids produced by the well; and
- (ii) a group of wells under common ownership or control that produce oil or natural gas and that share common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other liquids produced by the wells.

(b) The equipment referred to in subsection ~~(13)(a)~~ (15)(a) includes but is not limited to wellhead assemblies, amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting tubing.

(c) The term does not include equipment such as compressor engines used for transmission of oil or natural gas.

~~(14)~~(16) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal government or an agency of the federal government, or any other legal entity and includes persons resident in Canada.

~~(15)~~(17) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer, parent corporation, or subsidiary corporation.

~~(16)~~(18) "Small business stationary source" means a stationary source that:

- (a) is owned or operated by a person who employs 100 or fewer individuals;
- (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;
- (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C. 7661, et seq.;
- (d) emits less than 50 tons per year of an air pollutant;
- (e) emits less than a total of 75 tons per year of all air pollutants combined; and
- (f) is not excluded from this definition under 75-2-108(3).

~~(17)~~(19) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof; wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

(b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department of environmental quality, or slash and forest debris regulated under laws administered by the department of natural resources and conservation."

Insert: "Section 3. Section 75-2-211, MCA, is amended to read:

"75-2-211. Permits for construction, installation, alteration, or use. (1) The board shall by rule provide

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

for the issuance, modification, suspension, revocation, and renewal of a permit issued under this part.

(2) (a) Except as provided in 75-1-208(4)(b), 75-2-234, and subsections (2)(b) and (2)(c) of this section, not later than 180 days before construction, installation, or alteration begins or as a condition of use of any machine, equipment, device, or facility that the board finds may directly or indirectly cause or contribute to air pollution or that is intended primarily to prevent or control the emission of air pollutants, the owner or operator shall file with the department the appropriate permit application on forms available from the department.

(b) Except as provided in subsection (2)(e), the owner or operator of an oil or gas well facility shall file the permit application with the department no later than January 3, 2006, or 60 days after the initial well completion date, whichever is later. For purposes of this section, the initial well completion date for an oil or gas well facility is:

(i) for an oil or gas well facility producing oil, the date when the first oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after casing has been run; and

(ii) for an oil or gas well facility producing gas, the date when the oil or gas well facility is capable of producing gas through wellhead equipment from the ultimate producing interval after casing has been run.

(c) An owner or operator who complies with subsection (2)(b) may construct, install, or use equipment necessary to complete or operate an oil or gas well facility without a permit until the department's decision on the application is final. If the owner or operator does not comply with subsection (2)(b), the owner or operator may not operate the oil or gas well facility and is liable for a violation of this section for every day of construction, installation, or operation of the facility.

(d) The board shall adopt rules establishing air emission control requirements applicable to an oil or gas well facility during the time from the initial well completion date until the department's decision on the application is final.

(e) The provisions of subsections (2)(b) and (2)(c) do not apply to an oil or gas well facility subject to the federal air permitting provisions of 42 U.S.C. 7475 or 7503.

(3) The permit program administered by the department pursuant to this section must include the following:

(a) requirements and procedures for permit applications, including standard application forms;

(b) requirements and procedures for submittal of information necessary to determine the location, quantity, and type of emissions;

(c) procedures for public notice and opportunity for comment or public hearing, as appropriate;

(d) procedures for providing notice and an opportunity for comment to contiguous states and federal agencies, as appropriate;

(e) requirements for inspection, monitoring, recordkeeping, and reporting;

(f) procedures for the transfer of permits;

(g) requirements and procedures for suspension, modification, and revocation of permits by the department;

(h) requirements and procedures for appropriate emission limitations and other requirements, including enforceable measures necessary to ensure compliance with those limitations and requirements;

(i) requirements and procedures for permit modification and amendment; and

(j) requirements and procedures for issuing a single permit authorizing emissions from similar operations at multiple temporary locations, which permit may include conditions necessary to ensure compliance with the requirements of this chapter at all authorized locations and a requirement that the owner or operator notify the department in advance of each change in location.

(4) This section does not restrict the board's authority to adopt regulations providing for a single air quality permit system.

(5) Department approval of an application to transfer a portable emission source from one location to another is exempt from the provisions of 75-1-201(1).

(6) The department may, for good cause shown, waive or shorten the time required for filing the appropriate applications.

(7) The department shall require that applications for permits be accompanied by any plans, specifications, and other information that it considers necessary.

(8) An application is not considered filed until the applicant has submitted all fees required under 75-2-220 and all information and completed application forms required pursuant to subsections (2), (3), and (7) of this section. If the department fails to notify the applicant in writing within 30 days after the purported filing of an application that the application is incomplete and fails to list the reasons why the application is considered incomplete, the application

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

is considered filed as of the date of the purported filing.

(9) (a) Except as provided in 75-1-205(4) and 75-1-208(4)(b), if an application for a permit requires the preparation of an environmental impact statement under the Montana Environmental Policy Act, Title 75, chapter 1, parts 1 through 3, the department shall notify the applicant in writing of the approval or denial of the application:

(i) within 180 days after the department's receipt of a filed application, as provided in subsection (8), if the department prepares the environmental impact statement;

(ii) within 30 days after issuance of the final environmental impact statement by the lead agency if a state agency other than the department has been designated by the governor as lead agency for preparation of the environmental impact statement; or

(iii) if the application is for a machine, equipment, a device, or a facility at an operation that requires a permit under Title 82, chapter 4, part 1, 2, or 3, within 30 days of issuance of the final environmental impact statement in accordance with time requirements of Title 82, chapter 4, part 1, 2, or 3.

(b) If an application does not require the preparation of an environmental impact statement, is not subject to the provisions of 75-2-215, and is not subject to the federal air quality permitting provisions of 42 U.S.C. 7475, 7503, or 7661, the department shall notify the applicant in writing within 60 days after its receipt of a filed application, as provided in subsection (8), of its approval or denial of the application, except as provided in subsection (14).

(c) If an application does not require the preparation of an environmental impact statement and is subject to the federal air permitting provisions of 42 U.S.C. 7475, 7503, or 7661, the department shall notify the applicant, in writing, within 75 days after its receipt of a filed application, as provided in subsection (8), of its approval or denial of the application.

(d) Except as provided in subsection (9)(e), if an application does not require the preparation of an environmental impact statement and is subject to the provisions of 75-2-215, the department shall notify the applicant of its approval or denial of the application, in writing, within 75 days after its receipt of a filed application, as provided in subsection (8).

(e) If an application for a permit is for the construction, installation, alteration, or use of a source that is also required to obtain a license pursuant to 75-10-221 or a permit pursuant to 75-10-406, the department shall prepare a single environmental review document pursuant to Title 75, chapter 1, for the permit required under this section and the license or permit required under 75-10-221 or 75-10-406 and act on the applications within the time period provided for in 75-2-215(3)(e).

(f) The time for notification may be extended for 30 days by written agreement of the department and the applicant. Additional 30-day extensions may be granted by the department upon the request of the applicant. Notification of approval or denial may be served personally or by certified mail on the applicant or the applicant's agent.

(g) Failure by the department to act in a timely manner does not constitute approval or denial of the application. This does not limit or abridge the right of any person to seek available judicial remedies to require the department to act in a timely manner.

(10) When the department approves or denies the application for a permit under this section, a person who is jointly or severally adversely affected by the department's decision may request a hearing before the board. The request for hearing must be filed within 15 days after the department renders its decision. An affidavit setting forth the grounds for the request must be filed within 30 days after the department renders its decision. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection.

(11) Except as provided in [section 1]:

(a) ~~The~~ the department's decision on the application is not final until 15 days have elapsed from the date of the decision;

(b) ~~The~~ the filing of a request for hearing does not stay the department's decision. However, the board may order a stay upon receipt of a petition and a finding, after notice and opportunity for hearing, that:

(i) the person requesting the stay is entitled to the relief demanded in the request for a hearing; or

(ii) continuation of the permit during the appeal would produce great or irreparable injury to the person requesting the stay.

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

(c) ~~Upon~~ upon granting a stay, the board may require a written undertaking to be given by the party requesting the stay for the payment of costs and damages incurred by the permit applicant and its employees if the board determines that the permit was properly issued. When requiring an undertaking, the board shall use the same procedures and limitations as are provided in 27-19-306(2) through (4) for undertakings on injunctions.

(12) The board shall provide, by rule, a period of 30 days in which the public may submit comments on draft air quality permits for applications that:

- (a) are subject to the federal air quality permitting provisions of 42 U.S.C. 7475, 7503, or 7661;
- (b) are subject to the requirements of 75-2-215; or
- (c) require the preparation of an environmental impact statement.

(13) The board shall provide, by rule, a period of 15 days in which the public may submit comments on draft air quality permits not subject to subsection (12).

(14) The board shall provide, by rule, the basis upon which the department may extend by 15 days:

(a) the period as provided in subsection (13) in which the public may submit comments on draft air quality permits not subject to subsection (12); and

(b) the period for notifying an applicant of its final decision on approval or denial of an application, as provided in subsection (9)(b).

(15) (a) The board may adopt rules for issuance, modification, suspension, revocation, renewal, or creation of:

- (i) general permits covering multiple similar sources; or
- (ii) other permits covering multiple similar sources.

(b) Rules adopted pursuant to subsection (15)(a) may provide for construction and operation under the permit upon authorization by the department or upon notice to the department."

Insert: "Section 4. Section 75-5-103, MCA, is amended to read:

"75-5-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Associated supporting infrastructure" means:
 - (a) electric transmission and distribution facilities;
 - (b) pipeline facilities;
 - (c) aboveground ponds and reservoirs and underground storage reservoirs;
 - (d) rail transportation;
 - (e) aqueducts and diversion dams;
 - (f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or
 - (g) other supporting infrastructure that is necessary for an energy development project.
- ~~(1)~~(2) "Board" means the board of environmental review provided for in 2-15-3502.
- ~~(2)~~(3) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.
- ~~(3)~~(4) "Council" means the water pollution control advisory council provided for in 2-15-2107.
- ~~(4)~~(5) (a) "Currently available data" means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.
 - (b) The term does not mean new data to be obtained as a result of department efforts.
- ~~(5)~~(6) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).
- ~~(6)~~(7) "Department" means the department of environmental quality provided for in 2-15-3501.
- ~~(7)~~(8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.
- ~~(8)~~(9) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.
- (10) (a) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

- (i) generating electricity;
- (ii) producing gas derived from coal;
- (iii) producing liquid hydrocarbon products;
- (iv) refining crude oil or natural gas;
- (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5;
- (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant to 15-32-701; or
- (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.
- (b) The term does not include a nuclear facility as defined in 75-20-1202.
- ~~(9)~~(11) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether or not those uses are included in the water quality standards.
- ~~(10)~~(12) "High-quality waters" means all state waters, except:
 - (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the board's classification rules; and
 - (b) surface waters that:
 - (i) are not capable of supporting any one of the designated uses for their classification; or
 - (ii) have zero flow or surface expression for more than 270 days during most years.
- ~~(11)~~(13) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.
- ~~(12)~~(14) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.
- ~~(13)~~(15) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality waters.
- ~~(14)~~(16) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.
- ~~(15)~~(17) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.
- ~~(16)~~(18) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.
- ~~(17)~~(19) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.
- ~~(18)~~(20) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the board.
- ~~(19)~~(21) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.
- ~~(20)~~(22) "Outstanding resource waters" means:
 - (a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or
 - (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and approved by the legislature.
- ~~(21)~~(23) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point source.
- ~~(22)~~(24) "Parameter" means a physical, biological, or chemical property of state water when a value of that

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

property affects the quality of the state water.

~~(23)~~(25) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

~~(24)~~(26) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

~~(25)~~(27) (a) "Pollution" means:

(i) contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor; or

(ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) A discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter. Activities conducted under the conditions imposed by the department in short-term authorizations pursuant to 75-5-308 are not considered pollution under this chapter.

~~(26)~~(28) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

~~(27)~~(29) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

~~(28)~~(30) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

~~(29)~~(31) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

(i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

~~(30)~~(32) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards.

~~(31)~~(33) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

~~(32)~~(34) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

~~(33)~~(35) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

~~(34)~~(36) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

~~(35)~~(37) "Water quality protection practices" means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

or leaks, sludge or water disposal, or drainage from material storage.

~~(36)~~(38) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

~~(37)~~(39) "Watershed advisory group" means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704."

Insert: "NEW SECTION. Section 5. Written undertaking. If the person requesting a hearing under 75-5-611 is not the applicant or permittee of an energy development project, the district court shall require a written undertaking to be given by the party requesting the hearing for the payment of costs and damages incurred by the applicant or permittee unless the district court determines that issuance of the permit was prohibited by statute. When requiring an undertaking, the district court shall use the same procedures and limitations that are provided in 27-19-306(2) through (4) for undertakings on injunctions."

Insert: "NEW SECTION. Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 75, chapter 2, part 2, and the provisions of Title 75, chapter 2, part 2, apply to [section 1].

(2) [Section 5] is intended to be codified as an integral part of Title 75, chapter 5, part 6, and the provisions of Title 75, chapter 5, part 6, apply to [section 5]."

Renumber: subsequent section

3. Page 2, line 19.

Insert: "NEW SECTION. Section 8. Applicability. [This act] applies to judicial and board of environmental review hearing and appeal proceedings initiated on or after [the effective date of this act]."

And, as amended, do pass. Report adopted.

SB 349, introduced bill, be amended as follows:

1. Page 2, line 22.

Following: the first "that is"

Insert: "identified as"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/19/2009

SB 391, introduced bill, be amended as follows:

1. Page 1, line 11.

Strike: "Secretary of state to certify"

Insert: "Certification of "

2. Page 1, line 11 through line 12.

Following: "(1)" on line 11

Insert: "(a)"

Strike: "Not" on line 11 through ", the" on line 12

Insert: "The"

3. Page 1.

Following: line 15

Insert: "(b) The certification must be completed within 5 calendar days after the last day on which a candidate may withdraw from nomination pursuant to 13-10-325."

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

4. Page 1, line 16.

Following: "(2)"

Insert: "(a)"

Strike: "Not" through ", the"

Insert: "The"

5. Page 1.

Following: line 19

Insert: "(b) The certification must be completed by the later of:

(i) 5 calendar days after the secretary of state certifies the names and designations of candidates as provided in subsection (1); or

(ii) 5 calendar days after the last date on which a candidate may withdraw from nomination pursuant to 13-10-325."

6. Page 2, line 1 through line 2.

Strike: "70" on line 1 through "election" on line 2

Insert: "more than 5 calendar days after the date on which the declarations for nomination closed for the office for which the candidate filed"

7. Page 2, line 7.

Strike: "70" through "election"

Insert: "between the date on which the candidate filed a declaration for nomination and 5 calendar days after the date on which declarations for nomination closed for the office for which the candidate filed"

8. Page 2, line 12.

Following: "πσ"

Insert: ": (a)"

9. Page 2, line 13.

Following: "election"

Insert: "; or"

(b) at least one candidate for the party's nomination for the office was nominated at the primary election.

10. Page 2.

Following: line 13

"COORDINATION SECTION. Section 4. Coordination instruction. If [this act] and Senate Bill No. 156 are both passed and approved and both amend 13-10-208, then the section in each bill that amends 13-10-208 is void and 13-10-208 is amended to read:

"13-10-208. ~~Certificate Certification of primary ballot -- preparing ballot.~~ (1) ~~(a) Not more than 75 days and not less than 67 days before the date of the primary election, the~~ The secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209 and Title 13, chapter 12, part 2, ~~of this title.~~

(b) The certification must be completed within 5 calendar days after the last day on which a candidate may withdraw from nomination pursuant to 13-10-325.

(2) ~~(a) Not more than 67 days and not less than 62 days before the date of the primary election, the~~ The election administrator shall certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of the election administrator's office and must have the official ballots prepared in the manner provided in 13-10-209 and Title 13, chapter 12, part 2, ~~of this title.~~

(b) The certification must be completed by the later of:

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

(i) 5 calendar days after the secretary of state certifies the names and designations of candidates as provided in subsection (1); or

(ii) 5 calendar days after the last date on which a candidate may withdraw from nomination pursuant to 13-10-325.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325."

Insert: "COORDINATION SECTION. Section 5. Coordination instruction. If [this act] and Senate Bill No. 156 are both passed and approved and each amends 13-10-325, then the section in Senate Bill No. 156 that amends 13-10-325 is void."

Insert: "COORDINATION SECTION. Section 6. Coordination instruction. If [this act] and Senate Bill No. 156 are both passed and approved and each amends 13-10-326, then the section in Senate Bill No. 156 that amends 13-10-326 is void.""

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

2/19/2009

SB 353, do pass. Report adopted.

SB 361, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/19/2009

HB 179, introduced by Villa

HB 301, introduced by Kottel

HB 338, introduced by Ankney

HB 343, introduced by A. Noonan

HB 380, introduced by Stahl

HB 382, introduced by Hamilton

HB 383, introduced by Arntzen

HB 426, introduced by Milburn

MOTIONS

Senator J. Peterson moved **SB 402** be moved from the Judiciary committee to the Finance and Claims committee. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 46 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Mr. President.

Total 28

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Zinke.

Total 22

Paired: Essmann, Aye; Jent, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 224 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Williams, Zinke, Mr. President.

Total 32

Nays: Branae, Erickson, Gallus, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Windy Boy.

Total 17

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 323 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Brenden, McGee, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 330 passed as follows:

Yeas: Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 375 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 390 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 48

Nays: Windy Boy.

Total 1

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 392 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 394 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 33

Nays: Cooney, Erickson, Gallus, Hawks, Jent, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.

Total 17

Paired: Essmann, Aye; Jent, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 395 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

SB 400 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 401 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 405 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Excused: Jent.
Total 1

SB 437 passed as follows:

Yeas: Bales, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 38

Nays: Balyeat, Barrett, Brenden, R. Brown, Curtiss, Hinkle, Jackson, Jent, Laible, Ripley, Tutvedt, Zinke.
Total 12

Paired: Laslovich, Aye; Jent, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 22 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

UNFINISHED BUSINESS

Sen. Larsen moved to add Senators Bales, T. Brown, Hamlett, Ripley, Windy Boy as sponsors to **SB 493**. Motion carried.

SPECIAL ORDERS OF THE DAY

Senator Laible moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **SR 4**, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Laible moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **SR 5**, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Laible moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **SR 6**, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 287 - Senator Balyeat moved **SB 287** do pass.

SB 287 - Senator Balyeat moved **SB 287**, second reading copy, be amended as follows:

1. Page 3, line 5.

Following: "1"

Strike: "OR"

2. Page 3, line 6.

Following: line 5

Insert: "(h) engages in an activity for which the person's license has been suspended or was revoked; or"

Renumber: subsequent subsection

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Jent.

Total 2

SB 287 - Senator Balyeat moved **SB 287**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Erickson, Esp, Essmann, Gebhardt, Hinkle, Jackson, Kaufmann, Laible, Laslovich, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 31

Nays: Branae, Brenden, Brueggeman, Cooney, Gillan, Hamlett, Hansen, Hawks, Juneau, Keane, Larsen, Lewis, Moss, Schmidt, J. Tropila, M. Tropila, Wanzenried.

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Total 17

Absent or not voting: None.

Total 0

Excused: Gallus, Jent.

Total 2

SB 8 - Senator Hansen moved **SB 8** do pass.

SB 8 - Senator Hansen moved **SB 8**, second reading copy, be amended as follows:

1. Page 1, line 29.

Following: "and"

Insert: "and"

2. Page 1, line 30.

Following: "towns"

Insert: "."

3. Page 2, line 1 through line 5.

Strike: "; AND" on line 1 through "RESERVATION;" on line 5

4. Page 2, line 12.

Following: line 11

Insert: "(4) Land, water, projects, as defined in [section 8], or other resources within the exterior boundaries of an Indian reservation may not be included within the boundaries of a regional resource authority without the consent of the governing body of the tribe of the Indian reservation."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 47

Nays: Keane, Windy Boy.

Total 2

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 8 - Senator Hansen moved **SB 8**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley,

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 47

Nays: Curtiss, Windy Boy.

Total 2

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 151 - Senator Brueggeman moved **SB 151** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 192 - Senator Zinke moved **SB 192** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 250 - Senator Wanzenried moved **SB 250** do pass. Motion carried as follows:

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 350 - Senator Gillan moved **SB 350** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: R. Brown, Esp, Hinkle, McGee.

Total 4

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 363 - Senator Stewart-Peregoy moved **SB 363** do pass. Motion carried as follows:

Yeas: Balyeat, Barrett, Black, Branae, Brenden, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 37

Nays: Bales, Barkus, R. Brown, T. Brown, Hinkle, Laslovich, McGee, Perry, Peterson, Squires, Tutvedt, Mr. President.

Total 12

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

SB 386 - Senator Story moved consideration of **SB 386** be passed for the day. Motion carried.

SB 387 - Senator Bales moved **SB 387** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 22

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 430 - Senator Hamlett moved **SB 430** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Bales moved that **SB 350** be re-referred from Public Health, Welfare, and Safety to Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

SPECIAL ORDERS OF THE DAY

Senator Peterson moved that the Senate recess and proceed to the House of Representatives to hear the State of Education address by Superintendent of Public Instruction Denise Juneau. Upon adjournment of the joint session, the Senate will be adjourned until the hour of 8:00 a.m., Saturday February 21, 2009. Motion carried. After the Senate was introduced in the House chambers, President Story assumed the chair. Senator Peterson moved that the body resolve itself into a joint session for the purpose of receiving the State of Education address from Denise Juneau, Superintendent of Public Instruction. Motion carried.

Senator Peterson moved that the President be authorized to appoint a committee of four to notify the Superintendent of Public Instruction that the House and Senate are in joint session and ready to receive the State of the Education address. Motion carried.

President Story appointed Senator Kaufmann, Senator Black, Representative Calf Boss Ribs, and Representative Reichner, and the committee escorted Superintendent of Public Instruction Denise Juneau into the House chambers

President Story introduced Superintendent of Public Instruction Denise Juneau to the joint session, and the Superintendent of Public Instruction gave the following speech:

Good afternoon.

Thank you, President Story, Speaker Bergren, Representatives, Senators, and honored guests, for this opportunity to give the State of Education Address while educators from all across Montana could be present. It is their work we honor today. There is no more important attribute of a quality education than good teachers and I am committed to ensure that we work to keep them in Montana's classrooms. I respect the teachers and staff who pour their lifeblood into educating those who will someday lead our state. To support education – is to support quality teachers.

In addition to all of the educators in the balcony, we have several Board of Public Education members joining us today. I would like to thank Patti Myers, Angela McLean, Cal Gilbert, and Storrs Bishop for their dedication and service to Montana's schools.

A number of legislators – 44 of your peers – also serve the education system as teachers, professors, and school board members. Thank you for your service.

My parents instilled in me a belief in the power of education and the promises it holds for each person. They taught me and my brother that once we become educated, doors open, opportunities abound, and dreams become reality. I would like to acknowledge my parents – Stan and Carol Juneau.

I have carried these lessons with me in all my endeavors and they are still with me today – as State Superintendent of Public Instruction. Our mission and our work at the Office of Public Instruction is to create educational opportunity for all of Montana's students. Every staff member at OPI believes in the brilliance, creativity, and talents of each student in Montana's schools. They work diligently to make sure we offer the highest quality services to schools. Their work reflects their belief that education is truly the only way we will accomplish our state's hopes and dreams.

All of us in this room respect the work the Legislature does on our behalf. To manage a state's budget and determine priorities for all of Montana's citizens is a very difficult task, made even more demanding given the current economic straits of our country. I encourage you to make decisions that are forward thinking, because the decisions you make next week and in the following 45 days are vitally important to the next generation – your children, grandchildren, and great-grandchildren.

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Our public education system is also responsible to these future generations. We work to ensure every student receives a quality public education no matter their background, their heritage, their economic status, or geographic location.

The top priority of my administration is to increase the academic achievement of **every** student. Article X of Montana's Constitution opens with: "It is the goal of the people to establish a system of education which will develop the full educational potential of each person." This vision for our education system was created by everyday Montanans nearly four decades ago when they gathered in this chamber to rewrite our state constitution. While our students must still learn to read, write, and do arithmetic, they do so in a world that is very different from when those words were written.

Our students today are members of a global society in a way very few of us ever envisioned. They live in a world of iPods, YouTube videos about every topic imaginable; they are connected globally through social networking sites like MySpace, Facebook, and Twitter; their primary mode of conversation is text messaging - and they hold all of that power in the palm of their hands - literally.

Our schools today are preparing students for jobs that don't yet exist. We need to make sure our schools are equipped to serve students as they move toward a future we can only imagine. Rep. Grinde is carrying HB 459 that would create a virtual high school. This is one step we can take so students in both urban and rural Montana have access to the types of classes that will make them globally competitive.

While our world is changing, some of our expectations have not changed to meet these transformations. Rep. Malek is carrying HB433 that expands the compulsory school attendance ages from 7 and 16 to 6 and 17. HB433 is important because in today's global economy, employers require at least a high school diploma – and often additional education and training. Requiring young people to stay in school only until they're 16 may have made sense 50 years ago when jobs did not require specialized skills for entry level and advanced jobs.

Our policies must reflect our expectation that our students will graduate from high school to be economically successful. To make sure our students succeed in high school – and beyond - we have to engage in unprecedented collaborations. Sen. Hawks and Rep. Lake both recognize the need for partnerships and are promoting resolutions calling for the Legislature, K-12, and post-secondary education to work together, to establish common goals, and to make decisions based on data. I look forward to this partnership and the great things we will do for our education system when we all come together to make the best decisions we can for Montana's students. We are all at our best when we are all accountable for our actions and decisions. Our students deserve no less.

In fact, Commissioner Stearns and I and our top leadership teams have been meeting to discuss dual enrollment, distance education, and to strategize ways to reduce the high remediation rates that students graduating from our high schools are confronting. We will discuss ways to make sure the highway that connects our systems includes frequent on-ramps so students can get re-engaged in the system if they need to pull into a rest stop.

In this spirit, I will appoint a Community Learning and Partnerships Policy Advisor to bring stakeholders to the table to reach consensus about our goals for P-20 education. We will work with school boards, private business, industry, communities, and parents to chart a new course for our public education system to meet the needs of every student in each community across Montana.

Part of this new course includes changes for high school systems. I have appointed a policy advisor to work on a high school initiative to help update our high school model so students graduate with real-life skills necessary for 2-year colleges, 4-year universities, or the work force. Our mission in K-12 is to provide students with as many choices as possible at grade 13.

I recently saw a great example of high school reform. In Billings, they have a technical high school called the Career Center, which draws over 800 students from its three area high schools who can choose classes in different career

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

pathways such as hospitality and tourism or education and training. In the architecture and construction pathway, students design and build a house every year, right down to painting and designing the interior. This year, the Career Center's house sold for \$250,000. Those students are staying in school, learning relevant skills from outstanding teachers, while gaining credits toward graduation. The Office of Public Instruction will promote the many incredible programs Montana schools are implementing to provide real-life opportunities for students.

We must also pay attention to the early childhood end of the spectrum. I recently supported Rep. McClafferty's HB369 to provide minimal funding for the 20 Head Start programs that provide education, health, and nutrition services to the nearly 5000 low-income children across MT. I started my education career at a Head Start on the south side of Billings while my parents attended then-Eastern Montana College to become teachers. Head Start gave me a good start to my education career – I went on to graduate from Browning High School, Montana State University, the Harvard Graduate School of Education, and the University of Montana Law School. The Office of Pubic Instruction supports HB369 because we know when children participate in quality early childhood programs – like Head Start – they are more likely to stay and succeed in school because they are ready for kindergarten and the stages that follow.

Speaking of kindergarten, schools have responded enthusiastically to the Legislature's law to establish Full Time kindergarten. Ninety-three percent of our kindergarten students are now enrolled in FTK programs, with more schools coming on board next year.

We will be able to use the data system the Legislature funded to track these kindergarten students to determine the program's success. We are entering into an important phase of education where we use data to examine how well all of our students are learning. The federal No Child Left Behind Act has spotlighted accountability of schools through the use of data. I call on you to be our partner in these data-driven decisions by supporting our statewide data system, called Achievement in Montana, or AIM. This data system tracks a wide variety of student information including enrollment and demographic information, scores on statewide assessments, student dropout information, eligibility for state and federal education programs, and special education planning and reporting. This system allows stakeholders at all levels of education to make informed decisions based on accurate and timely information.

Our constitution states: "Equality of educational opportunity is guaranteed to each person of the state." When we analyze the data from multiple angles, we know the majority of our students are doing very well academically. However, the guarantee is not being met for every student. Achievement gaps do exist, primarily between our poor and non-poor students. We can do better. The Legislature recognizes these disparities in achievement and makes appropriations to support schools in their efforts to close the American Indian student achievement gap and provide services for at-risk students. These bold steps by the Legislature help all Montanans.

We lost one of our respected tribal leaders this week and my thoughts are with the Crow Nation as they mourn the loss of Chairman Carl Venne. He believed in the power of public education and what it can do for all children. He was a great advocate, in particular, for the education of American Indian students in Montana. He knew that every American Indian child who went on to become a doctor, teacher, attorney, or scientist was one more person who would help their communities become successful and economically viable. We all need to work toward that same vision of opportunity and community improvement.

The 2005 and 2007 Legislature initiated funding that allows OPI to provide necessary support to schools in the areas of curriculum and instruction and Indian Education For All.

The OPI curriculum specialists have traveled to the four corners of Montana to provide professional development around quality classroom teaching. They are a highly regarded addition to the services we provide to schools and teachers. They are helping us conduct on-site accreditation school visits, provide valuable materials and resources to classroom teachers, and make our agency more focused on quality instruction.

SENATE JOURNAL
FORTIETH LEGISLATIVE DAY - FEBRUARY 20, 2009

Our constitution also provides that “the state recognizes the distinct and unique cultural heritage of the American Indian and is committed in its educational goals to the preservation of their cultural integrity.” This provision became known as Indian Education For All, and after the Legislature provided funding for its implementation, it has become a widely respected program that is being duplicated in many other states. Many teachers wondered how it was possible to integrate content about American Indians into their classroom lessons. Since 2005, our office, working with teachers and tribal educators, has created over 220 classroom units and lessons spanning nearly every curriculum area. Now, we have physics students measuring the elastic potential energy storage of hunting bows. Math students are learning how to use experimental and theoretical probabilities to make predictions by playing a variety of tribal guessing games.

A final priority for discussion today is, of course, funding to ensure a quality education for each student. Public education is the ONLY system our state constitution has specifically outlined as the Legislative body having a duty to fund. The constitution states "The legislature shall provide a basic system of free quality public elementary and secondary schools. . . . It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system." The 2005 Legislature defined a basic system of quality public schools. Now we need to move toward adequate funding of that system.

In the near future, I will appoint a School Funding Policy Analyst to develop a long-term strategy for school funding so we can work with new and future legislators. This analyst will look at our history of funding schools, our economic structure, our tax structure, and develop a long-term plan so we can do better for our students and our schools. We must develop a solution that will outlast our individual political lives and agendas.

I ask you to please fund public schools this session at a level that will ensure every student is provided a quality education in every one of our schools. There are several good bills proposed this session. Sen. Branae carried SBs 69 and 70 on behalf of the Office of Public Instruction, which increases funding for the quality educator component and increases the per ANB and the entitlement component by 3%. Rep. Villa is carrying HB15 that provides for the Governor’s school funding request, which should be the minimum amount you provide to schools this session. We must also take time to review the components of the new federal Jobs Package President Obama signed this week. Federal guidance will soon emerge and we will all know how it may, or may not, fit into the state’s budget. OPI’s goal is to provide accurate and credible information to the Legislature and local schools. Although this federal money is OTO, we will work with you so the money is used to improve opportunities and outcomes for our students.

At the end of the day, we are all responsible for the education of Montana’s children. And, we all benefit from each child's educational success. Funding public education is a state responsibility. Economic crisis or not – the legislature has a constitutional responsibility to ensure a quality public education for each child.

As you continue your work here in this 61st Legislature, please remember the critical importance of K-12 education to our economic future and the lives of all of Montana's children. Every child deserves a chance to succeed, and a quality education is a part of that foundation for success. We have an obligation to keep the good of our children – all of our children – in our hearts during our deliberations.

Thank you all. I look forward to a great next 4 years.

Senator Peterson moved that the joint session of the 61st Legislature be adjourned. Motion carried.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-FIRST LEGISLATIVE DAY**

Helena, Montana
February 21, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Jent, excused. Quorum present.

BILLS AND JOURNALS:

2/21/2009

Correctly printed: **SB 151, SB 192, SB 250, SB 350, SB 353, SB 361, SB 363, SB 387, SB 430, SB 436, SB 438, SB 449, SB 470, SR 7.**

Correctly engrossed: **SB 8, SB 183, SB 286, SB 287, SB 288, SB 290, SB 337, SB 349, SB 388, SB 391, SB 403, SB 424, SB 425, SB 475, SJR 28.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

2/20/2009

SB 351, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "ORIGINATORS;"

Insert: "PROVIDING FOR A REGISTERED AGENT FOR MORTGAGE BROKERS AND MORTGAGE LENDERS WITHOUT AN IN-STATE OFFICE;"

2. Title, page 1, line 10.

Following: "32-9-121,"

Insert: "32-9-122,"

3. Page 2, line 10.

Following: "mortgage broker"

Insert: ", mortgage lender,"

4. Page 2, line 22.

Following: "registry"

Strike: "and recognized" through "department"

5. Page 2, line 23.

Strike: "department"

Insert: "nationwide mortgage licensing system and registry"

6. Page 2, line 28.

Following: "mortgage broker"

Insert: "or mortgage lender"

7. Page 3, line 4.

Strike: "located in this state"

8. Page 3, line 5.

Following: "proprietorship,"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Insert: "or a mortgage lender"

9. Page 3, line 7.

Following: "broker"

Insert: "if the mortgage broker entity or the mortgage lender engages in the origination of residential mortgage loans"

10. Page 3, line 9.

Following: "broker"

Insert: ", mortgage lender, or mortgage loan originator"

11. Page 4, line 10.

Following: "state."

Strike: "that"

Insert: "who is registered with and maintains a unique identifier through the nationwide mortgage licensing system and registry and does any of the following:

(i) "

Following: "loan"

Strike: " "

Insert: ";

(ii)"

12. Page 4, line 12 through line 13.

Following: "applicant." on line 12

Insert: "(b)"

Following: "lender" on line 12

Strike: "may" on line 12 through "license" on line 13

Insert: "who also performs the activities of a mortgage broker must be licensed as a mortgage broker, as provided in [section 7], and be registered with and maintain a unique identifier through the nationwide mortgage licensing system and registry"

Renumber: subsequent subsection

13. Page 4, line 19.

Following: "broker"

Insert: "or a mortgage lender"

14. Page 4.

Following: line 22

Insert: "(21) "Mortgage servicer loss mitigation specialist" means a person who on behalf of the person making the residential mortgage loan works with a borrower who is in default or in a foreseeable likelihood of a default to modify or refinance either temporarily or permanently the borrower's obligations in order to avoid foreclosure or otherwise to finalize collection through the foreclosure process."

Renumber: subsequent subsections

15. Page 4, line 25.

Following: "registration of"

Insert: "persons that originate residential mortgage loans, including state-licensed"

Following: "mortgage brokers."

Insert: "state-licensed mortgage lenders, state-licensed"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

16. Page 5, line 5.

Following: "or gain;"

Strike: "or"

Insert: "and"

17. Page 5, line 11 through line 15.

Following: "include" on line 11

Strike: ":", on line 11 through "(i)" on line 12

Following: "underwriter" on line 12

Strike: " ; or" on line 12 through "originator" on line 15

18. Page 6.

Following: line 10

Insert: "(29) "Residential real estate" means any real property located in the state of Montana upon which is constructed a dwelling or upon which a dwelling is intended to be built within a 2-year period, subject to 24 CFR 3500.5(b)(4). The borrower's intent to construct a dwelling is presumed unless the borrower has submitted a written, signed statement to the contrary."

Renumber: subsequent subsections

19. Page 6, line 12.

Following: "mortgage broker"

Insert: "or the mortgage lender"

20. Page 7.

Following: line 7

Insert: "(a) agencies of the United States government and agencies of this state and its political subdivisions;

(b) a person licensed or chartered under the laws of the United States or of any state as a bank, savings and loan association, credit union, or industrial loan company, which may be referenced under this section as any of the following:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the farm credit administration;"

Renumber: subsequent subsections

21. Page 7, line 9.

Strike: "32-9-103(26)(a)(i) through (26)(a)(iii)"

Insert: "32-9-103(27)(a)(i) through (27)(a)(iii)"

22. Page 7.

Following: line 11

Insert: "(d) a person employed by or that works as an independent contractor for a licensee under this part to perform only administrative or clerical tasks as a loan processor or underwriter on behalf of the licensee and who does not solicit borrowers or negotiate the terms of loans on behalf of the licensee;"

Renumber: subsequent subsections

23. Page 7, line 13.

Following: "member"

Insert: "of that individual"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

24. Page 7, line 14 through line 15.

Strike: subsection (c) in its entirety

Insert: "(f) a person who offers, negotiates, or provides financing in conjunction with the sale of real property owned by that person and that is secured by a contract for deed, mortgage, deed of trust, or other equivalent security interest on the real property sold;

(g) a loan that is made by a person to an employee of that person if the proceeds of the loan are used to assist the employee in meeting the employee's housing needs;

(h) a person engaged solely in nonresidential or commercial real estate lending;

(i) a person qualified as a pension plan under 26 U.S.C. 401 if the plan makes residential mortgages only to the plan's participants;

(j) the federal national mortgage association, the federal home loan mortgage corporation, and the government national mortgage association;

(k) a 501(c)(3) corporation, which is not otherwise engaged in or holding itself out to the public as being engaged in the mortgage loan business, that makes mortgage loans to promote home ownership or improvements for bona fide low-income individuals;

(l) a person that performs only real estate brokerage activities and is licensed or registered pursuant to 37-51-301 unless the person is compensated by a mortgage lender, a mortgage broker, or a mortgage loan originator or an agent of the mortgage lender, mortgage broker, or mortgage loan originator;"

Renumber: subsequent subsections

25. Page 7, line 19.

Strike: " "

Insert: "; or"

26. Page 7.

Following: line 19

Insert: "(n) a licensed certified public accountant or a licensed public accountant who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to providing public accounting services to the client unless the accountant is compensated by a mortgage lender, a mortgage broker, or a mortgage loan originator or an agent of the mortgage lender, mortgage broker, or mortgage loan originator.

(2) The department may exempt from this part mortgage servicer loss mitigation specialists if the department determines that an exemption of a mortgage servicer loss mitigation specialist is not in violation of the Secure and Fair Enforcement for Mortgage Licensing Act, Title V of the Housing and Economic Recovery Act, Public Law 110-289."

Renumber: subsequent subsection

27. Page 7, line 27.

Following: "engage in"

Strike: "the"

Insert: "residential mortgage loan originator"

28. Page 7, line 28.

Strike: "of a loan processor or underwriter"

Following: "licensed"

Insert: "as a mortgage broker or a mortgage loan originator"

29. Page 7, line 29.

Following: "licensed as"

Insert: "a mortgage broker or a"

30. Page 8.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Following: line 10

Insert: "NEW SECTION. Section 7. Dual licensure. A mortgage lender that also brokers residential mortgage loans must also be licensed as a mortgage broker upon meeting the qualifications for a mortgage broker license."

Renumber: subsequent sections

31. Page 10, line 20.

Strike: "and"

32. Page 10, line 22.

Strike: "."

Insert: "; and"

33. Page 10.

Following: line 22

Insert: "(i) evidence that the applicant has registered with the nationwide mortgage licensing system and registry and obtained a unique identifier."

34. Page 11.

Following: line 4

Insert: "(3) The department shall issue a mortgage broker license to an applicant that has met all the requirements of this section, has paid the fee required under 32-9-117, and is not determined ineligible under [section 17]."

35. Page 11, line 15.

Following: "bond"

Strike: ", irrevocable letter of credit,"

36. Page 11.

Following: line 16

Insert: "(ii) evidence that the applicant has registered with the nationwide mortgage licensing system and registry and obtained a unique identifier;"

Renumber: subsequent subsections

37. Page 12, line 4 through line 5.

Strike: subsection (6) in its entirety

Insert: "(6) The department shall investigate each applicant. The investigation must include a criminal records check based on the fingerprints of the applicant and a civil records check. The department shall require each applicant to file a set of the applicant's fingerprints, taken by a law enforcement agency, and any other information necessary to complete a statewide and nationwide criminal check with the criminal investigation bureau of the department of justice for state processing and with the federal bureau of investigation for federal processing. All costs associated with the criminal history check are the responsibility of the applicant. Criminal history records provided to the department under this section are confidential and the department may use the records only to determine if the applicant is eligible for licensure. If an investigation outside this state is necessary, the department may require the applicant to advance sufficient funds to pay the actual expenses of the investigation.

(7) The department shall issue a mortgage lender license to an applicant that has met all the requirements of this section, has paid the fee required under 32-9-117, and is not determined ineligible under [section 17]."

Renumber: subsequent subsection

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

38. Page 12, line 7.

Strike: "a single application fee as set forth"

Insert: "payment of the fees as provided"

39. Page 12.

Following: line 15

Insert: "(d) evidence that the applicant has registered with the nationwide mortgage licensing system and registry and obtained a unique identifier;"

Renumber: subsequent subsections

40. Page 13.

Following: line 6

Insert: "(3) The department shall issue a mortgage loan originator license to an applicant that has met all the requirements of this section, has paid the fee required under 32-9-117, and is not determined ineligible under [section 17]."

Renumber: subsequent subsections

41. Page 13, line 7.

Following: "broker"

Insert: "or an employing mortgage lender"

42. Page 13, line 9.

Following: "broker"

Insert: "or employing mortgage lender"

Following: "at the"

Strike: "mortgage broker's"

Insert: "employing licensee's"

43. Page 13, line 12.

Following: "broker"

Insert: "or the mortgage lender"

44. Page 13, line 17.

Following: "broker"

Insert: "or mortgage lender"

45. Page 13, line 25.

Following: "\$500"

Insert: "and an additional application fee of \$250 for any branch location"

46. Page 13, line 26.

Strike: "\$400"

Insert: "\$450"

47. Page 14, line 3.

Strike: "only one"

Insert: "a"

Following: "fee of"

Insert: "\$500 for a mortgage broker and"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Following: "\$750"

Insert: "for a mortgage lender"

48. Page 14, line 17.

Following: "months."

Insert: "An application for renewal also must demonstrate that the licensee continues to meet the standards for licensure under this part."

49. Page 14, line 20.

Following: "broker"

Insert: ", mortgage lender,"

50. Page 14, line 24.

Following: "**brokers**"

Insert: ", mortgage lenders,"

51. Page 14, line 25.

Following: "**standards**"

Insert: "-- renewals"

52. Page 14, line 26.

Following: "broker"

Strike: "or"

Insert: ", a mortgage lender, or a"

53. Page 14, line 28.

Following: "furnish"

Insert: "information concerning the applicant"

54. Page 14, line 29.

Following: "registry"

Insert: "regarding"

55. Page 14, line 30 through page 15, line 2.

Strike: subsection (a) in its entirety

Insert: "(a) fingerprints for submission to the federal bureau of investigation and any governmental agency or entity authorized to receive information to allow a supplemental criminal history background check at the state, federal, and international levels;

(b) legal name, birth date, and social security number; and"

Renumber: subsequent subsection

56. Page 16, line 3.

Strike: "examination and"

57. Page 16, line 21.

Following: "demonstrate"

Strike: "at least one of"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

58. Page 16, line 23.

Following: "application;"

Insert: "or"

59. Page 16, line 24 through line 25.

Strike: subsection (ii) in its entirety

60. Page 17, line 26.

Strike: "For purposes" through "and to"

Insert: "To"

Following: "for investigation"

Insert: "of any applicant for licensure"

61. Page 17, line 28.

Following: "information"

Insert: "and distributing information to and from any source directed by the department, including the United States department of justice and the federal bureau of investigation"

62. Page 18, line 8.

Strike: "In-state office requirement -- records"

Insert: "Records"

63. Page 18, line 9 through line 11.

Strike: line 9 through line 11

64. Page 18, line 14 through line 15.

Strike: "required materials" on line 14 through ", and the" on line 15

65. Page 18, line 16 through line 17.

Strike: "Licensees" on line 16 through "Montana." on line 17

66. Page 18, line 18.

Following: "broker"

Insert: "or mortgage lender"

67. Page 18, line 19.

Following: "broker"

Insert: "or mortgage lender"

68. Page 18, line 21.

Strike: "televised,"

69. Page 18, line 23.

Strike: ", address,"

Following: "broker"

Insert: ", mortgage lender,"

70. Page 18, line 25.

Strike: ", address,"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

71. Page 18, line 26.

Following: "brokers"

Insert: ", mortgage lenders,"

72. Page 18, line 29.

Following: "broker's"

Strike: "or"

Insert: ", a mortgage lender's, or a mortgage"

73. Page 19, line 1.

Insert: "Section 20. Section 32-9-122, MCA, is amended to read:

"32-9-122. Requirement for designated manager and branch license requirements. (1) A mortgage broker or mortgage lender entity shall apply for a license for a main office and for every branch office and shall register with the nationwide mortgage licensing system and registry and maintain a unique identifier.

(1)(2) A mortgage broker that is not a sole proprietorship entity shall designate to the department an individual within its organization who is located in this state and who is licensed by this state as a mortgage broker to serve as the designated manager of the organization main office and a separate designated manager to serve at each branch location.

(3) A mortgage lender entity shall designate to the department an individual who is licensed as a mortgage broker as the designated manager of the main office and each branch location.

(4) A designated manager must have 3 years of experience as either a mortgage broker, a mortgage loan originator, or a registered loan originator.

(5) A designated manager is responsible for the operation of the business at the location under the designated manager's full charge, supervision, and control.

(6) A mortgage broker or mortgage lender entity is responsible for the conduct of a designated manager or mortgage loan originator while the designated manager or mortgage loan originator is employed by the mortgage broker or mortgage lender entity, including for violations of federal laws that are applicable to the origination of residential mortgage loans, violations of this part, and violations of any administrative rule adopted pursuant to this part.

(7) A designated manager is responsible for conduct that violates federal laws that are applicable to the origination of residential mortgage loans, violations of this part, and violations of any administrative rule adopted pursuant to this part. The designated manager's responsibility includes conduct by the designated manager, each mortgage broker, and each mortgage loan originator employed by the entity while the designated manager is employed at the location that the designated manager manages.

(2)(8) If the designated manager ceases to act in that capacity, within 15 days the mortgage broker or mortgage lender shall designate another individual licensed as a mortgage broker as designated manager and shall submit information in writing to the department establishing that the subsequent designated manager is in compliance with the provisions of this part.

(3)(9) If the employment of a designated manager is terminated, the mortgage broker or mortgage lender shall return the designated manager's license to the department within 5 business days of the termination."

Insert: "NEW SECTION. Section 21. Registered agent for mortgage broker or mortgage lender licensee without physical office in state -- venue. (1) An applicant for a mortgage lender license under [section 12] who does not maintain a physical office within the state shall file, in a form prescribed by the department, an irrevocable consent appointing the department as the registered agent of the applicant for the purpose of receiving service of any lawful process in a noncriminal suit, action, or proceeding against the applicant or its successors, executor, or administrator that is based on an alleged violation of this part or any administrative rule adopted pursuant to this part. Service on the department has the same force and validity as if served personally on the applicant or the person filing the consent.

(2) Service must be made by leaving a copy of the process in the office of the department and is effective only if:

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

(a) notice of the service and a copy of the process are sent by certified mail to the defendant or respondent at the last-known address on file with the department by the plaintiff, which may be the department, in an action, suit, or proceeding; and

(b) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within a time the court allows.

(3) In a judicial action, suit, or proceeding arising under this part or any administrative rule adopted pursuant to this part between the department and a licensee who does not maintain a physical office in this state, venue must be exclusively in Lewis and Clark County.

(4) A notice, hearing schedule, or order must be mailed to the person or licensee by certified mail at the last-known address for which the license was issued or, in the case of an unlicensed person, at the last-known address of the person."

Renumber: subsequent sections

74. Page 19, line 3.

Strike: "irrevocable letter of credit,"

75. Page 19, line 9 through line 10.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

76. Page 19, line 11.

Strike: "irrevocable letters of credit or"

77. Page 19, line 14 through line 16.

Following: "maintain" on line 14

Strike: "only"

Following: "bond" on line 14

Strike: "or letter of" on line 14 through "licensure" on line 16

Insert: "for each entity license"

78. Page 19, line 17.

Strike: "or letter of credit"

79. Page 19, line 18.

Following: "for all"

Insert: "persons originating residential loans and for all"

80. Page 19, line 20.

Strike: "per"

Insert: "a"

Following: "year;"

Strike: "or"

81. Page 19, line 21.

Strike: "above"

Insert: "of"

Following: "million"

Strike: "per"

Insert: "but not exceeding \$100 million a"

Following: "year"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Strike: " _"

Insert: "; or

(iii) \$100,000 for annual loan production of more than \$100 million a year."

82. Page 19, line 22 through line 24.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

83. Page 19, line 25 through line 27.

Following: "requirement"

Strike: ", and in" on line 25 through "requirement" on line 27

84. Page 20, line 2.

Strike: "or a mortgage lender"

85. Page 21, line 2.

Following: "broker"

Insert: ", mortgage lender,"

Following: "originator"

Strike: ", conduct"

Insert: "conducts"

86. Page 21, line 12.

Following: "providing"

Insert: "residential"

Following: "mortgage"

Strike: "broker"

Following: "mortgage broker"

Insert: "or mortgage loan originator"

87. Page 22, line 14.

Following: "include the"

Insert: "state license number and the"

88. Page 23, line 2.

Following: "mortgage brokers,"

Insert: "mortgage lenders,"

89. Page 23, line 3 through line 5.

Following: "mortgage broker," on line 3

Insert: "mortgage lender, and"

Following: "originator" on line 3

Strike: ", and" on line 3 through "originator" on line 4

Following: "broker's," on line 4

Insert: "mortgage lender's, or"

Following: "originator's" on line 4

Strike: ", or registered" on line 4 through "originator's" on line 5

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

90. Page 23, line 9.

Following: "brokers"

Insert: ", mortgage lenders,"

91. Page 23, line 14.

Following: "broker"

Insert: "and mortgage lender"

92. Page 23, line 19.

Following: "brokers"

Insert: ", mortgage lenders,"

93. Page 24, line 6.

Following: "applications;"

Insert: "and"

94. Page 24, line 7 through line 8.

Strike: subsections (e) and (f) in their entirety

Renumber: subsequent subsection

95. Page 24, line 9.

Following: "fees for"

Strike: "testing" through ", and"

96. Page 24, line 12.

Following: "broker"

Insert: "or mortgage lender"

97. Page 24, line 15 through line 16.

Strike: subsection (b) in its entirety

Insert: "(b) The total cost for any investigation or examination must be in accordance with fees determined by the department by rule pursuant to this section and may include expenses for necessary travel outside the state for the purposes of conducting the inspection or examination. The fees set by the department must be commensurate with the cost of the examination or investigation. All fees collected under this section must be deposited in the department's account in the state special revenue fund to be used by the department to cover the department's cost of conducting examinations and investigations."

98. Page 24.

Following: line 25

Insert: "(b) To carry out the purposes of this section, the department may:

(i) enter into agreements or relationships with other government officials or regulatory associations to improve efficiencies and reduce the regulatory burden by sharing resources, adopting standardized or uniform methods or procedures, and sharing documents, records, information, or evidence obtained under this section;

(ii) accept and rely on examination or investigation reports by other government officials, within or outside of this state;

(iii) accept audit reports made by an independent certified public accountant for the licensee or person subject to this part if the examination or investigation covers at least in part the same general subject matter as the audit report and may incorporate the audit report in the report of the examination, report of the investigation, or other writing of the department under this part; and

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

(iv) assess against the licensee or person subject to this part the costs incurred by the department in conducting the investigation or examination."

Renumber: subsequent subsection

99. Page 24, line 26.

Following: "(5)(a)(i)"

Insert: "and [section 30]"

100. Page 24, line 29.

Following: "broker"

Insert: "and mortgage lender"

101. Page 24, line 30.

Following: "employing"

Insert: "mortgage"

Following: "brokers"

Insert: "or employing mortgage lenders"

102. Page 25.

Following: line 5

Insert: "(b) participate in the nationwide mortgage licensing system and registry, including the payment of any associated costs;"

Renumber: subsequent subsections

103. Page 25, line 6.

Following: "broker"

Insert: ", mortgage lender,"

Following: "register with"

Insert: ", pay any required nonrefundable fees to,"

104. Page 25.

Following: line 9

Insert: "(8) (a) The department may, if the U.S. department of housing and urban development determines that a provision of this part does not meet the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act, Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, or that additional persons are subject to this part, refrain from enforcing the provision that is determined to be noncompliant and shall by rule invalidate any noncompliant exemption to this part or require that additional persons be temporarily subject to this part to be compliant with federal law, including the provisions for licensure and registration with and maintenance of a valid unique identifier with the nationwide mortgage licensing system and registry.

(b) The department shall propose to the regular session of the legislature that follows the determination by the U.S. department of housing and urban development legislation to address the incompatibility with federal law. The provisions of subsection (8)(a) must be amended in the correcting legislation."

105. Page 25, line 23.

Following: "mortgage broker"

Insert: "or mortgage lender"

Following: "business"

Insert: "or to be employed as a mortgage loan originator"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

106. Page 26, line 28.

Following: "Act"

Insert: "of 2008"

107. Page 27, line 13 through line 14.

Strike: "11," on line 13 through "27" on line 14

Insert: "8, 12, 15 through 17, 21, 25 through 27, and 30"

108. Page 27, line 15.

Strike: "11," through "27"

Insert: "8, 12, 15 through 17, 21, 25 through 27, and 30"

109. Page 27, line 17.

Following: "invalid,"

Insert: "including a determination that any part of [this act] is out of compliance with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008,"

110. Page 27, line 23.

Strike: "14 and 15"

Insert: "15 and 16"

And, as amended, do pass. Report adopted.

SB 373, do pass. Report adopted.

SB 398, do pass. Report adopted.

SB 431, introduced bill, be amended as follows:

1. Page 1, line 19.

Strike: "dealing with"

Insert: "handling"

And, as amended, do pass. Report adopted.

SB 444, do pass. Report adopted.

SB 493, introduced bill, be amended as follows:

1. Page 1, line 29.

Strike: "2009"

Insert: "2008"

And, as amended, do pass. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

2/20/2009

SB 485, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

2/20/2009

SB 278, introduced bill, be amended as follows:

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

1. Page 1, line 20.

Strike: "an attachment or addition"

Insert: "a hands-free accessory"

2. Page 2, line 27.

Following: "a"

Strike: "law enforcement"

Insert: "public safety"

Following: "defined in"

Strike: "7-32-201"

Insert: "44-4-401"

3. Page 2.

Following: line 30

Insert: "(iv) an employee of a construction company while working in a construction zone as defined in 61-8-314;"

Insert: "(c) a federally licensed amateur radio operator engaged in public service; or"

Renumber: subsequent subsections

4. Page 3, line 2 through line 4.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

5. Page 3, line 5.

Following: "subsection (2)"

Strike: "or (4)"

Following: "\$100."

Insert: "A violation of this section may not be recorded or charged against a driver's record, points may not be assessed against the driver's record pursuant to 61-11-203, and an insurance company may not hold a violation of this section against the insured."

And, as amended, do pass. Report adopted.

SB 291, introduced bill, be amended as follows:

1. Page 2, line 1.

Strike: "21"

Insert: "20"

2. Page 2, line 4.

Strike: "21"

Insert: "20"

3. Page 2, line 13.

Strike: "21"

Insert: "20"

4. Page 3, line 5.

Strike: "21"

Insert: "20"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

5. Page 4, line 19.

Strike: "21"

Insert: "20"

6. Page 5, line 4.

Strike: "21"

Insert: "20"

7. Page 5, line 27.

Following: "(r)"

Insert: "if money is available,"

8. Page 5, line 28.

Strike: "21"

Insert: "20"

9. Page 5, line 30.

Strike: "21"

Insert: "20"

10. Page 6, line 2.

Strike: "21"

Insert: "20"

11. Page 6, line 3.

Following: "(2)"

Insert: "(a)"

12. Page 6, line 4.

Following: "track"

Insert: ", except as provided in subsection (2)(b)"

13. Page 6.

Following: line 4

Insert: "(b) The authority may not exercise the power of eminent domain over rights-of-way and track owned by a railroad company."

14. Page 6, line 11 through line 12.

Strike: subsection (b) in its entirety

Insert: "(b) determine the location, construction, use, and operation of its railroad facilities and the potential lease, purchase, ownership, or acquisition of other railroad facilities;"

15. Page 6, line 17.

Strike: "21"

Insert: "20"

Strike: "21"

Insert: "20"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

16. Page 7, line 2 through line 5.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

17. Page 7, line 19.

Following: "obtain"

Insert: "general"

18. Page 7.

Following: line 22

Insert: "(2) Information required pursuant to subsection (1) is baseline information and does not include engineering studies, advanced analysis, or preconstruction or construction planning."

Renumber: subsequent subsections

19. Page 7, line 24.

Strike: "21"

Insert: "20"

20. Page 7, line 25.

Following: "not"

Insert: "expend revenue, other than a legislative appropriation, or"

21. Page 7, line 30 through page 8, line 8.

Strike: section 7 in its entirety

Renumber: subsequent sections

22. Page 8, line 10.

Strike: "The"

Insert: "Subject to legislative approval as provided in [section 6], the"

23. Page 8, line 18.

Strike: "21"

Insert: "20"

24. Page 8, line 24.

Strike: "21"

Insert: "20"

25. Page 8, line 30.

Strike: "21"

Insert: "20"

26. Page 9, line 19.

Strike: "21"

Insert: "20"

27. Page 9, line 22.

Strike: "21"

Insert: "20"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

28. Page 9, line 24.

Strike: "21"

Insert: "20"

29. Page 10, line 26.

Strike: "21"

Insert: "20"

30. Page 11, line 23.

Strike: "21"

Insert: "20"

31. Page 12, line 3.

Strike: "21"

Insert: "20"

32. Page 12, line 6.

Strike: "21"

Insert: "20"

33. Page 12, line 15.

Strike: "21"

Insert: "20"

34. Page 12, line 19.

Strike: "21"

Insert: "20"

35. Page 12, line 21.

Strike: "21"

Insert: "20"

Strike: "21"

Insert: "20"

36. Page 13, line 2.

Strike: "21"

Insert: "20"

37. Page 13, line 5.

Strike: "21"

Insert: "20"

38. Page 13, line 23.

Strike: "21"

Insert: "20"

39. Page 32, line 10.

Strike: "21"

Insert: "20"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

40. Page 38, line 20.

Strike: "21"

Insert: "20"

41. Page 49, line 22.

Strike: "21"

Insert: "20"

42. Page 51, line 2.

Strike: "21"

Insert: "20"

43. Page 51, line 28.

Strike: "21"

Insert: "20"

44. Page 52, line 15.

Strike: "21"

Insert: "20"

45. Page 52, line 19.

Strike: "21"

Insert: "20"

46. Page 53, line 24.

Strike: "21"

Insert: "20"

47. Page 56, line 7.

Strike: "18"

Insert: "17"

48. Page 56, line 10.

Strike: "21"

Insert: "20"

49. Page 79, line 14 through line 16.

Strike: "funding" on line 14 through "[section 7]" on line 16

Insert: "an appropriation is provided to the rail service competition council for the 2011 biennium and if the council is eliminated pursuant to [section 117], then the appropriation may be used by the Montana railroad development authority pursuant to [sections 1 through 20]"

50. Page 79, line 22.

Strike: "21"

Insert: "20"

51. Page 79, line 24.

Strike: "21"

Insert: "20"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

And, as amended, do pass. Report adopted.

SB 409, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "61-9-321,"

Insert: "61-9-501, AND 61-9-503,"

2. Page 1.

Following: line 20

Insert: "Section 2. Section 61-9-501, MCA, is amended to read:

"61-9-501. Inspections by officers of the department. (1) The department or its agents may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law or that its equipment is not in proper adjustment or repair require the driver of such the vehicle to stop and submit such the vehicle to an inspection and such test with reference thereto as may be appropriate.

(2) In the event such the vehicle and its equipment are found to be in safe condition and in full compliance with the law, the officer making such the inspection may issue to the driver an official certificate of inspection and approval of such the vehicle specifying those parts or equipment ~~so that have been~~ inspected and approved.

(3) In the event such the vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy to the department. ~~Said~~ The notice ~~shall must~~ specify the deficiencies and require that such the vehicle be placed in safe condition and its equipment in proper repair and adjustment within 5 days, except as provided in subsection (4).

(4) For the purpose of 61-9-321 only, the notice must require the engine compression brake device muffler be in proper repair and adjustment within 14 days."

Insert: "Section 3. Section 61-9-503, MCA, is amended to read:

"61-9-503. Owners and drivers to comply with inspection laws. (1) No person driving a vehicle may refuse to submit the vehicle to an inspection and test when required to do so by the department or an authorized officer or employee of the department.

(2) Every owner or driver, upon receiving a notice as provided in 61-9-501, shall comply ~~therewith~~ and ~~shall within 5 days~~ have the deficiencies corrected and forward notification of the correction to the department. In lieu of compliance with this subsection, the vehicle may not be operated, except as provided in subsection (3).

(3) No person may operate any vehicle after receiving ~~a notice with reference thereto as above provided~~ except as may be necessary to return the vehicle to the residence or place of business of the owner or driver, if within a distance of 20 miles, or to a garage until the vehicle and its equipment have been placed in proper repair and adjustment and otherwise made to conform to the requirements of this chapter."

And, as amended, do pass. Report adopted.

SR 3, be adopted. Report adopted.

SB 471, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/20/2009

HB 322, introduced by Blewett

HB 404, introduced by Reinhart

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

HB 407, introduced by MacDonald

HB 475, introduced by Phillips

HB 509, introduced by Ingraham

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 498, introduced by Bales, Essmann, Story, Keane, referred to Finance and Claims.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 1, introduced by French (by request of the Environmental Quality Council), referred to Energy and Telecommunications.

HJR 4, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.

HJR 6, introduced by Lake (by request of the Education and Local Government Interim Committee), referred to Education and Cultural Resources.

HJR 7, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.

HJR 9, introduced by Furey, Augare, Hands, Pomnichowski, French, Larsen, Hawks, Nooney, Schmidt, Wilmer, More, Kottel, Erickson, Caferro, Fleming, Malek, Bergren, Van Dyk, Driscoll, Becker, Boss Ribs, Squires, McGillvray, Wanzenried, Ankney, Kerns, D. Brown, Zinke, P. Beck, O'Hara, Steinbeisser, Ripley, Brenden, Perry, Hinkle, Esp, Hamilton, J. Tropila, Jent, Laslovich, M. Tropila, Ebinger, Juneau, Arntzen, P. Noonan, Klock, Moss, MacDonald, Pease-Lopez, Reinhart, Milburn, Vance, Debby Barrett, Bean, Phillips, Stewart-Peregoy, Brueggeman, Reichner, Lewis, Randall, Wiseman, Roundstone, Cohenour, Villa, Steenson, Hamlett, Barkus, Laible, Smith, Bennett, B. Beck, Sonju, Essmann, Shockley, Taylor, J. Peterson, Dick Barrett, Belcourt, Blasdel, Boland, Campbell, Glaser, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hunter, Ingraham, Jones, Jopek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Mendenhall, Miller, Morgan, K. Peterson, Sands, Sesso, Vincent, Wagner, Warburton, Washburn, Wilson, Berry, T. Brown, Gillan, Kasten, Lake, A. Noonan, Roberts, Blewett, Sales, Howard, referred to State Administration.

HJR 12, introduced by Steenson, Ankney, Augare, Dick Barrett, P. Beck, Becker, Belcourt, Bergren, Blasdel, Blewett, Boland, Calf Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jopek, Kottel, MacDonald, Malek, McAlpin, McChesney, Menahan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Welborn, Wilmer, referred to Business, Labor, and Economic Affairs.

HJR 17, introduced by French, Windy Boy, Murphy, R. Brown, Debby Barrett, Brenden, Lewis, Juneau, Gillan, Cohenour, Malek, French, Hamilton, Stahl, Pomnichowski, Becker, Sands, Arntzen, Warburton, McGillvray, Mendenhall, Hunter, Glaser, Boland, P. Noonan, Taylor, referred to Public Health, Welfare and Safety.

The following House bills were introduced, read first time, and referred to committees:

HB 19, introduced by Ingraham (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

HB 21, introduced by Dickenson (by request of the Environmental Quality Council), referred to Taxation.

HB 23, introduced by Himmelberger (by request of the Legislative Council), referred to State Administration.

HB 24, introduced by Morgan (by request of the Revenue and Transportation Interim Committee), referred to Taxation.

HB 27, introduced by Wiseman (by request of the Energy and Telecommunications Interim Committee), referred to Energy and Telecommunications.

HB 30, introduced by Wilmer (by request of the State Administration and Veterans' Affairs Interim Committee), referred to State Administration.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

HB 37, introduced by Campbell (by request of the Code Commissioner), referred to State Administration.

HB 38, introduced by Campbell (by request of the Legislative Council), referred to Education and Cultural Resources.

HB 39, introduced by Cohenour (by request of the Water Policy Committee), referred to Natural Resources.

HB 40, introduced by Cohenour (by request of the Water Policy Committee), referred to Natural Resources.

HB 41, introduced by Cohenour (by request of the Water Policy Committee), referred to Natural Resources.

HB 44, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.

HB 45, introduced by Ingraham, referred to Local Government.

HB 46, introduced by Fleming, (by request of the Office of Public Instruction) referred to Education and Cultural Resources.

HB 48, introduced by P. Beck (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

HB 54, introduced by Ingraham, referred to State Administration.

HB 55, introduced by Hawk, referred to Judiciary.

HB 57, introduced by Bean (by request of the Office of Public Instruction), referred to Education and Cultural Resources.

HB 58, introduced by Ingraham (by request of the Department of Administration), referred to State Administration.

HB 59, introduced by Hamilton (by request of the Teachers' Retirement Board), referred to State Administration.

HB 61, introduced by Sesso (by request of the State Library Commission), referred to Local Government.

HB 62, introduced by Hamilton (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 67, introduced by Belcourt (by request of the Department of Administration), referred to Local Government.

HB 70, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

HB 71, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

HB 72, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

HB 74, introduced by Van Dyk (by request of the Fish, Wildlife, and Parks Commission), referred to Fish and Game.

HB 75, introduced by Van Dyk (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 76, introduced by P. Beck (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 78, introduced by Hendrick (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

HB 80, introduced by Kottel (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 82, introduced by Driscoll (by request of the Department of Administration), referred to Energy and Telecommunications.

HB 90, introduced by Hawk, referred to Agriculture, Livestock and Irrigation.

HB 93, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee), referred to Public Health, Welfare and Safety.

HB 94, introduced by McNutt, referred to Business, Labor, and Economic Affairs.

HB 95, introduced by Hawk (by request of the Department of Corrections), referred to Judiciary.

HB 97, introduced by Boland (by request of the Department of Administration), referred to Finance and Claims.

HB 98, introduced by Dick Barrett (by request of the Department of Environmental Quality), referred to Energy and Telecommunications.

HB 100, introduced by Steenson (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 151 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 192 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 250 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Esp.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Total 1

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 360 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 363 passed as follows:

Yeas: Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Bales, Barkus, R. Brown, Squires, Tutvedt.

Total 5

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 387 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen,

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 23

Paired: Essmann, Aye; Jent, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 430 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

MOTIONS

Senator Esp moved **SB 433** be re-referred from Local Government to Finance and Claims.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Cooney, Erickson, Hansen, Juneau, Kaufmann, Squires, Wanzenried, Williams.

Total 8

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Brueggeman moved **SB 386** be moved from the Committee of the Whole to Highways and Transportation. Motion carried.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 231 - Senator Laible moved **SB 231** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 241 - Senator Balyeat moved **SB 241** do pass.

Senator Balyeat moved **SB 241** be placed at the bottom of the second reading board. Without objection, motion carried.

SB 300 - Senator Steinbeisser moved **SB 300** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 40

Nays: Balyeat, Gillan, Hinkle, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

SB 303 - Senator Wanzenried moved **SB 303** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Brenden, Hamlett, Laible, Ripley.
Total 4

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 306 - Senator Esp moved **SB 306** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Hawks, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 326 - Senator Erickson moved **SB 326** do pass.

SB 326 - Senator Erickson moved **SB 326**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Following: "CAREGIVER;"

Insert: "ALLOWING FOR DEPARTMENT INVENTORY AUDITS UNDER CERTAIN CONDITIONS;"

2. Page 1, line 18.

Following: "time"

Insert: "has agreed to undertake responsibility for managing the well-being of a person with respect to the medical use of marijuana, who"

3. Page 1, line 19.

Following: "chapter"

Insert: ", "

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

4. Page 2, lines 2 and 3.

Strike: subsections (iv) and (v) in their entirety

Renumber: subsequent subsections

5. Page 4, lines 17 and 18.

Following: the second "department" on line 17

Strike: "; or"

Insert: ", including the adoption of rules regarding the process and implementation of onsite inventory audits that may be conducted by the department for any caregiver with more than five patients. The rules must include provisions addressing the required amount of reasonable notice necessary before initiating an onsite inventory audit."

6. Page 5, line 4.

Following: "(2)"

Insert: "(a)"

7. Page 5, line 5.

Following: "plants"

Insert: ", eight immature plants,"

8. Page 5.

Following: line 5

Insert: "(b) For purposes of subsection (2)(a), "mature" means the plant has differentiated as to gender and is female in any state of budding and "immature" means plants that are not mature but excludes sprouts or clones that have not yet developed roots or are not yet planted in soil."

9. Page 5, line 27.

Following: "(8)"

Insert: "(a)"

10. Page 5.

Following: line 29

Insert: "(b) This section does not prohibit landlords from restricting or prohibiting the growing of medical marijuana in rental premises by tenants or renters."

Amendment adopted as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.

Total 36

Nays: Balyeat, Barkus, Brenden, T. Brown, Curtiss, Esp, Hinkle, Jackson, McGee, Shockley, Steinbeisser, Tutvedt, Zinke.

Total 13

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Excused: Jent.
Total 1

SB 326 - Senator Erickson moved **SB 326**, as amended, do pass. Motion carried as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Zinke, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SB 345 - Senator Tutvedt moved **SB 345** do pass.

Senator Esp moved that **SB 345** be placed below **SJ 26** on the second reading board. Without objection, motion carried.

SB 356 - Senator Zinke moved **SB 356** do pass. Motion carried as follows:

Yeas: Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Peterson, Ripley, Shockley, Steinbeisser, M. Tropila, Tutvedt, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

Senator McGee assumed the chair.

SB 404 - Senator Brueggeman moved **SB 404** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke,

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

Senator Brueggeman reassumed the chair.

SB 441 - Senator Laslovich moved **SB 441** do pass.

SB 441 - Senator Laslovich moved **SB 441**, second reading copy, be amended as follows:

1. Title, lines 5 through 7.
Strike: "PROVIDING" on line 5 through "GARNISHEE;" on line 7

2. Title, line 10.
Strike: "25-13-402,"

3. Title, through line 11.
Following: "40-2-106"
Strike: ", "

4. Page 1, line 15 through page 3, line 12.
Strike: section 1 in its entirety
Renumber: subsequent sections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

SB 441 - Senator Laslovich moved **SB 441**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 451 - Senator Wanzenried moved **SB 451** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 457 - Senator Branae moved **SB 457** do pass.

SB 457 - Senator Branae moved **SB 457**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Strike: "AMENDING SECTION 60-2-602, MCA;"

2. Page 4, line 3 through page 5, line 14.

Strike: section 2 in its entirety

Renumber: subsequent sections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann,

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 457 - Senator Branae moved **SB 457**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SJR 20 - Senator Story moved **SJR 20** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SJR 26 - Senator Juneau moved **SJR 26** do pass. Motion carried as follows:

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Curtiss, Esp.

Total 2

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 345 - Senator Tutvedt moved **SB 345** do pass.

SB 345 - Senator Tutvedt moved **SB 345**, second reading copy, be amended as follows:

1. Page 3, line 8.

Strike: "8"

Insert: "2"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 345 - Senator Tutvedt moved **SB 345**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Keane, Laible, Larsen, Laslovich, McGee, Moss, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Hawks, Kaufmann, Lewis, Murphy, Perry, Squires, Wanzenried.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Total 7

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 241 - Senator Balyeat moved **SB 241** do pass.

SB 241 - Senator Balyeat moved **SB 241**, second reading copy, be amended as follows:

1. Page 2, line 19.

Following: "all"

Insert: "revenue"

2. Page 2, line 21.

Following: "and the"

Insert: "funds or"

3. Page 2, line 27.

Following: "employee"

Insert: "as recorded on the state accounting, budgeting, and human resource system"

4. Page 2, line 28.

Following: "(ii)"

Insert: "subject to [section 4(2)],"

5. Page 3, line 2.

Following: "agency"

Insert: "at the program level"

6. Page 3, line 4.

Following: "purpose"

Insert: "at the program level"

7. Page 3, line 17.

Following: "public."

Insert: "For the university system, information may be provided as summary data. For each fiscal year, the database must be operational 30 days following the final closing of the prior fiscal year."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 241 - Senator Balyeat moved **SB 241**, as amended, be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Zinke, Mr. President.

Total 39

Nays: Cooney, Juneau, Kaufmann, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Williams, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Bales moved to re-refer **SB 241** from State Administration to Finance and Claims. Motion carried.

Senator Bales moved to re-refer **SB 303** from Natural Resources to Finance and Claims. Motion carried.

Senator J. Peterson moved the Senate stand in recess until 11:30 a.m.

Roll call: All members present, except Senator Windy Boy and Senator Jent, excused.

SPECIAL ORDERS OF THE DAY

Senator R. Brown thanked the Pages for their work during the week of February 16-21, 2009.

Senator Windy Boy present at this time.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman):

2/21/2009

SB 327, introduced bill, be amended as follows:

1. Title, line 4.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Following: ""AN ACT"

Strike: "ADOPTING THE PROTECTION FOR MOTHERS-TO-BE ACT;"

2. Title, line 5 through line 6.

Following: "CHILD;" on line 5

Strike: remainder of line 5 through "PENALTIES;" on line 6

3. Title, line 6.

Following: "AMENDING"

Strike: "SECTION 41-1-103,"

Insert: "SECTIONS 45-5-102, 45-5-103, 45-5-201, AND 45-5-202,"

4. Page 1, line 10 through line 11.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 1, line 13.

Strike: "8"

Insert: "6"

6. Page 1, line 16 through page 2, line 27.

Strike: section 3 through section 6 in their entirety

Insert: "Section 2. Section 45-5-102, MCA, is amended to read:

"45-5-102. Deliberate homicide. (1) A person commits the offense of deliberate homicide if:

(a) the person purposely or knowingly causes the death of another ~~human-being~~ person or an unborn child;

or

(b) the person attempts to commit, commits, or is legally accountable for the attempt or commission of robbery, sexual intercourse without consent, arson, burglary, kidnapping, aggravated kidnapping, felonious escape, assault with a weapon, aggravated assault, or any other forcible felony and in the course of the forcible felony or flight thereafter, the person or any person legally accountable for the crime causes the death of another ~~human-being~~ person or an unborn child.

(2) A person convicted of the offense of deliberate homicide shall be punished by death as provided in 46-18-301 through 46-18-310, unless the person is less than 18 years of age at the time of the commission of the offense, by life imprisonment, or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years, except as provided in 46-18-219 and 46-18-222."

Insert: "Section 3. Section 45-5-103, MCA, is amended to read:

"45-5-103. Mitigated deliberate homicide. (1) A person commits the offense of mitigated deliberate homicide when the person purposely or knowingly causes the death of another ~~human-being~~ person or an unborn child but does so under the influence of extreme mental or emotional stress for which there is reasonable explanation or excuse. The reasonableness of the explanation or excuse must be determined from the viewpoint of a reasonable person in the actor's situation.

(2) Mitigated deliberate homicide is a lesser included offense of deliberate homicide as defined in 45-5-102(1)(a), but is not a lesser included offense of deliberate homicide as defined in 45-5-102(1)(b).

(3) Mitigating circumstances that reduce deliberate homicide to mitigated deliberate homicide are not an element of the reduced crime that the state is required to prove or an affirmative defense that the defendant is required to prove. Neither party has the burden of proof as to mitigating circumstances, but either party may present evidence of mitigation.

(4) A person convicted of mitigated deliberate homicide shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222."

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Insert: "Section 4. Section 45-5-201, MCA, is amended to read:

"45-5-201. Assault. (1) A person commits the offense of assault if the person:

- (a) purposely or knowingly causes bodily injury to another person or an unborn child;
- (b) negligently causes bodily injury to another person or an unborn child with a weapon;
- (c) purposely or knowingly makes physical contact of an insulting or provoking nature with ~~any individual~~ another person or an unborn child; or
- (d) purposely or knowingly causes reasonable apprehension of bodily injury in another person or an unborn child.

(2) A person convicted of assault shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both."

Insert: "Section 5. Section 45-5-202, MCA, is amended to read:

"45-5-202. Aggravated assault. (1) A person commits the offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another person or an unborn child or purposely or knowingly, with the use of physical force or contact, causes reasonable apprehension of serious bodily injury or death in another person or an unborn child.

(2) A person convicted of aggravated assault shall be imprisoned in the state prison for a term not to exceed 20 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222."

Renumber: subsequent sections

7. Page 3, line 12 through line 15.

Strike: section 9 in its entirety

Renumber: subsequent sections

8. Page 3, line 21.

Strike: "[Sections 1 through 8] are"

Insert: "[Section 1] is"

9. Page 3, line 22 through line 23.

Following: "to" on line 22

Strike: remainder of line 22 through "8]" on line 23

Insert: "[section 1]"

And, as amended, do pass. Report adopted.

SB 333, do pass. Report adopted.

SB 374, introduced bill, be amended as follows:

1. Page 2, line 4.

Following: "finds"

Strike: ", by clear and convincing evidence,"

2. Page 2, line 6.

Following: "custodian"

Insert: "and that an abortion is in the best interests of the petitioner"

And, as amended, do pass. Report adopted.

SB 379, do pass. Report adopted.

SB 381, do pass. Report adopted.

SB 382, introduced bill, be amended as follows:

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

1. Title, lines 5 and 6.

Strike: "AND SCHOOL DISTRICTS"

2. Title, lines 8 and 9.

Following: "7-1-4123,"

Insert: "AND"

Strike: "20-3-324, AND 20-15-403,"

3. Page 5, line 6 through page 8, line 19.

Strike: sections 7 through 9 in their entirety

Renumber: subsequent section

4. Page 8, lines 25 and 26.

Strike: subsection (3) in its entirety

And, as amended, do pass. Report adopted.

SB 442, introduced bill, be amended as follows:

1. Title, line 6 through line 7.

Following: "MATERIALS;" on line 6

Strike: remainder of line 6 through "SYNDROME;" on line 7

2. Page 1, line 16.

Following: "syndrome;"

Insert: "and"

3. Page 1, line 17.

Strike: "(c)"

Insert: "(b)"

Following: "format" on line 17

Strike: remainder of line 17 through "[section 3]" on line 19

4. Page 1, line 21 through page 2, line 2.

Strike: subsection (4) in its entirety

Renumber: subsequent subsection

5. Page 2, line 30 through page 3, line 8.

Strike: section 3 in its entirety

Renumber: subsequent sections

6. Page 3, line 10.

Following: "instruction."

Strike: "(1)"

7. Page 3, line 12 through line 13.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

SB 447, do pass. Report adopted.

SB 464, do pass. Report adopted.

SB 468, introduced bill, be amended as follows:

1. Title, line 5.

Following: "FOR"

Insert: "WRONGFUL DEATH,"

Following: "INJURY"

Insert: ", "

2. Page 1, line 12.

Strike: "is"

Insert: "may be"

3. Page 1, line 13.

Following: "for"

Insert: "wrongful death,"

Following: "injury"

Insert: ", "

4. Page 1, line 14 through line 15.

Following: "~~failure~~," on line 14

Strike: remainder of line 14 through line 15 in their entirety

And, as amended, do pass. Report adopted.

SB 476, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

2/21/2009

SB 411, introduced bill, be amended as follows:

1. Title, line 6 through line 8.

Strike: "IDENTIFICATION" on line 6 through "PRESERVED;" on line 8

Insert: "SAND AND GRAVEL RESOURCES AMONG THE CHARACTERISTICS AND FEATURES THAT GROWTH POLICY JURISDICTIONAL AREA MAPS AND TEXT MUST DESCRIBE;"

2. Page 1, line 26.

Strike: "and"

3. Page 1.

Following: line 26

Insert: "(viii) sand and gravel resources; and"

4. Page 1, line 27.

Strike: "(viii)"

Insert: "(ix)"

5. Page 2, line 27.

Following: "and"

Insert: "and"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

6. Page 3, line 5 through line 9.

Strike: "; and" on line 5 through "bodies" on line 9

And, as amended, do pass. Report adopted.

SB 434, do pass. Report adopted.

SB 482, introduced bill, be amended as follows:

1. Title, line 4 through line 5.

Following: "SUBDIVISIONS;" on line 4

Strike: "REVISING WHAT" on line 4 through "ACT;" on line 5

2. Title, line 7 through line 8.

Strike: "PROVIDING" on line 7 through "RECORD;" on line 8

3. Title, line 9.

Strike: "76-3-103, 76-3-611, AND 76-3-621,"

Insert: "76-3-207 AND 76-3-611,"

4. Page 1, line 13 through page 3, line 12.

Strike: section 1 in its entirety

"Section 1. Section 76-3-207, MCA, is amended to read:

"76-3-207. Divisions of land exempted from review but subject to survey requirements and zoning regulations -- exceptions -- fees for examination of division.(1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions of land are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions of land not amounting to subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family;

(c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;

(d) for five or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots; and

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, a division of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the county clerk and recorder;

(b) a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this chapter.

(3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the county treasurer has certified that ~~all~~ no real property taxes and special assessments assessed and levied on the land to be divided ~~have been paid~~ are delinquent.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

that ~~the~~ no prorated real property taxes and special assessments are ~~paid~~ delinquent on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as a partial payment of the total tax that is due.

(4) The governing body may examine a division of land to determine whether or not the requirements of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination.""

5. Page 3, line 19.

Strike: "all"

Insert: "no"

6. Page 3, line 20.

Strike: "not"

7. Page 3, line 29 through page 6, line 11.

Strike: section 3 in its entirety

And, as amended, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

2/21/2009

SB 426, introduced bill, be amended as follows:

1. Title, line 4.

Following: "COMPACT"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2, line 7.

Strike: "compact"

Insert: "Compact"

3. Page 2, line 9.

Strike: "2"

Insert: "3"

Following: "5"

Strike: ", "

Insert: "and"

Following: "6"

Strike: ", 7, and 8"

4. Page 2, line 14.

Following: "1.5 Animal"

Strike: "Unit"

Insert: "Units,"

5. Page 2, line 15.

Strike: "and"

Strike: "Unit"

Insert: "Units, one elk equals 0.75 Animal Units, and one mule deer, whitetail deer, bighorn sheep, or antelope equals 0.2 Animal Units"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

6. Page 3, line 5.

Following: line 4

Insert: "(13) "Nonconsumptive Use" means the use of a water right considered to be nonconsumptive by the decree, permit, or law authorizing the use because it results in no depletion of water from the source."

Renumber: subsequent subsections

7. Page 3, line 20.

Following: "bison"

Insert: "and other mammals"

8. Page 3, line 21.

Following: "267"

Insert: ", 35 Stat. 1051"

9. Page 3, lines 25 through 27.

Strike: line 25 through line 27 in their entirety

10. Page 3, line 28.

Strike: "2."

Insert: "1."

11. Page 3, line 29.

Strike: "Current Wildlife"

Insert: "Consumptive"

Strike: "consumptive use"

Insert: "Consumptive Use"

12. Page 3, line 30.

Strike: "3"

Insert: "2"

Strike: "Wildlife Use"

Insert: "Consumptive Use for wildlife purposes"

13. Page 4, line 1.

Following: "exceed the"

Insert: "amount of water needed to feed and water the"

14. Page 4, line 3.

Strike: "4"

Insert: "3"

15. Page 4, lines 4 through 7.

Strike: "Bird Habitat" on line 4

Insert: "Nonconsumptive"

Following: "Use." on line 4

Strike: remainder of line 4 through "Compact." on line 7

16. Page 4, line 8.

Following: "for"

Insert: "largely Nonconsumptive Uses to fill"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Strike: "Ponds"

Insert: "Potholes, when the water is naturally available,"

Strike: "151"

Insert: "177"

17. Page 4, line 9.

Following: "Creeks"

Strike: "for the maintenance of loafing and rearing habitat for birds"

Insert: ", when such flows are naturally available"

18. Page 4, line 10.

Strike: "6"

Insert: "4"

19. Page 4, line 11.

Strike: "3. "

Insert: "2. "

20. Page 4, line 12.

Strike: "consumptive use"

Insert: "Consumptive Use"

21. Page 4, line 15.

Strike: "non-consumptive"

Insert: "Nonconsumptive Uses for"

Following: "administrative"

Strike: "uses"

Insert: "purposes"

22. Page 4, line 16.

Strike: "7"

Insert: "5"

23. Page 4, line 18.

Strike: "consumptive use"

Insert: "Consumptive Use"

24. Page 4, line 22.

Strike: "4. "

Insert: "3. "

25. Page 4, line 26.

Strike: "consumptive use"

Insert: "Consumptive Use"

26. Page 4, line 27.

Strike: "5. "

Insert: "4. "

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

27. Page 4, line 28 through page 5, line 1.
Strike: "a." on line 28 through "b." on line 30
Following: "rights" on line 30
Strike: remainder of line 30 through "B.3.," on page 5, line 1
Insert: "quantified in the Compact"

28. Page 5, lines 2 through 4.
Strike: "6." on line 2
Insert: "5."
Following: "in" on line 2
Strike: remainder of line 2 through "B.3." on line 3
Insert: "this Compact"
Following: "1908" on line 3
Strike: remainder of line 3 through "1921" on line 4

29. Page 5, line 7.
Strike: "2"
Insert: "3"
Following: "4,"
Insert: "and"
Following: "5"
Strike: ", 6, and 7"

30. Page 5, line 8.
Strike: "current"

31. Page 5, line 23.
Strike: "right"
Insert: "rights"

32. Page 6, line 1.
Strike: "consumptive use"
Insert: "Consumptive Use"

33. Page 6, lines 17 and 18.
Following: "diversion" on line 17
Strike: "and measurement"
Strike: "consumptive use"
Insert: "Consumptive Use"
Following: "Compact" on line 17
Strike: remainder of line 17 through "herein" on line 18

34. Page 6, line 28.
Strike: "III.B.3.(b)"
Insert: "III.B.2.(b)"

35. Page 6, line 29.
Strike: "III.B.3.(a)"
Insert: "III.B.2.(a)"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

36. Page 6, line 30.

Strike: "III.B.3."

Insert: "III.B.2."

37. Page 7, line 1.

Strike: "."

Insert: "; and"

38. Page 7, line 4 through line 25.

Strike: lines 4 through 25 in their entirety

Insert: "1. Nonconsumptive Uses. Water rights specified in this Compact for natural flow or other Nonconsumptive Uses shall not be subject to Change in Use, provided that the emergency use of water for fire suppression as provided for in Article III.B.3 shall not be deemed a Change in Use or violation of a water right for natural flow.

2. Consumptive Uses. The United States may make a Change in Use of its Consumptive Use water rights described in Article III of this Compact provided that:

(a) the Change in Use shall be in fulfillment of the purposes of the National Bison Range;

(b) the total Consumptive Use shall not exceed the amount described in this Compact;

(c) the Change in Use shall not adversely affect any water right Arising Under State Law; and

(d) with the exception of the provisions governing a change in the purpose for which the water right is used, the United States, in making the change, shall comply with the provisions of the Montana Water Use Act, Title 85, chapter 2, MCA, applicable to change in appropriation rights at the time of the change."

39. Page 7, line 26.

Strike: "4."

Insert: "3."

40. Page 7, line 27.

Strike: "III.B.4"

Insert: "III.B.3"

41. Page 8, line 1.

Strike: "III.B.3.(b)"

Insert: "III.B.2.(b)"

42. Page 8, line 4.

Strike: "III.B.4"

Insert: "III.B.3"

43. Page 10, line 1.

Strike: "compact"

Insert: "Compact"

44. Page 10, line 13.

Strike: "This"

Insert: "this"

45. Page 10, line 17.

Strike: "effective date"

Insert: "Effective Date"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

46. Page 10, line 18.

Strike: "party"

Insert: "Party"

47. Page 10, line 23.

Strike: "party"

Insert: "Party"

48. Page 10, line 25.

Strike: "This"

Insert: "this"

49. Page 11, line 4.

Strike: "8"

Insert: "6"

50. Page 11, line 9.

Following: the first "Date of"

Strike: "This"

Insert: "this"

Following: the second "Date of"

Strike: "This"

Insert: "this"

51. Page 11, line 30.

Insert: "NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

SB 427, introduced bill, be amended as follows:

1. Page 1, line 13.

Following: "Short title"

Insert: "-- scope"

Following: "title."

Insert: "(1)"

2. Page 1, line 15.

Following: line 14

Insert: "(2) [Sections 1 through 6] apply only to common law claims brought in judicial proceedings on behalf of private interests of individuals or entities."

And, as amended, do pass. Report adopted.

SB 440, do pass. Report adopted.

SB 461, do pass. Report adopted.

SB 481, do pass. Report adopted.

SJR 21, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

2/21/2009

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

SB 439, do pass. Report adopted.

SB 446, introduced bill, be amended as follows:

1. Page 5.

Following: line 4

Insert: "(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses."

2. Page 8, line 23.

Following: "must have"

Insert: "in writing"

3. Page 8, line 25.

Following: "ability to pay"

Strike: "and on" through "provided"

4. Page 9, line 17.

Following: "hospital"

Insert: "and is not subject to the provisions of [section 5] and subsections (5) through (9) of this section"

5. Page 11, line 9.

Insert: "COORDINATION SECTION. **Section 7. Coordination instruction.** If both Senate Bill No. 439 and [this act] are passed and approved, then Senate Bill No. 439 is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/21/2009

SB 348, introduced bill, be amended as follows:

1. Title, line 7.

Strike: "75"

Insert: "90"

2. Page 1, line 16.

Strike: "75"

Insert: "90"

3. Page 1, line 19 through line 20.

Strike: "for" on line 19 through "days" on line 20

4. Page 1, line 20.

Strike: "first" through "February"

Insert: "date established by law"

5. Page 1, line 24 through line 25.

Strike: "for" on line 24 through "days" on line 25

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

6. Page 1, line 25.

Strike: "second" through "January"

Insert: "date established by law"

7. Page 2, line 6.

Strike: "30-day"

Strike: "45-day"

8. Page 2, line 8.

Strike: "30-day"

Strike: "45-day"

And, as amended, do pass. Report adopted.

SB 367, introduced bill, be amended as follows:

1. Title, line 9.

Following: "VOTING;"

Insert: "REQUIRING THE SECRETARY OF STATE TO REPORT TO THE GOVERNOR AND THE LEGISLATURE;"

2. Page 2, line 3.

Strike: "by electronic mail"

Insert: "electronically"

3. Page 2, line 4.

Following: " _"

Insert: "This subsection (2)(e) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process."

4. Page 2, line 24.

Strike: "by facsimile and"

Strike: "registration"

5. Page 2, line 25.

Strike: "by electronic mail"

Insert: "electronically -- definition"

6. Page 2, line 28 through line 29.

Strike: "as" on line 28 through "(2)" on line 29

7. Page 3, line 5 through line 12.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

8. Page 3, line 13.

Following: "transmitted"

Insert: "by the elector"

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

9. Page 3, line 14.

Following: "day"

Insert: "and is received by the election administrator before 5 p.m. on the day after the election. Ballots received pursuant to this section must be counted at the same time as provisional ballots are counted"

10. Page 3, line 15.

Insert: "(3) For purposes of this section, "electronically" means by facsimile transmission or electronic mail. The term includes internet-based voting if an internet-based voting system approved by the secretary of state is available to the election administrator."

11. Page 4.

Following: line 2

Insert: "NEW SECTION. Section 5. Report by secretary of state. (1) The secretary of state and county election administrators shall work with staff of the department of military affairs and with other interested parties to identify, investigate, and resolve problems with and challenges to implementing efficient, secure, and timely registration and voting for absent uniformed services electors and overseas electors as required by [this act].

(2)(a) During the 2009-10 interim, the secretary of state shall, whenever requested, report to the state administration and veterans' affairs interim committee on the progress of the investigation.

(b) The secretary of state shall complete the investigation prior to September 1, 2010. Completion of the investigation includes providing a final report of the secretary of state's and election administrators' findings, conclusions, and specific recommendations to the governor and to the legislature as provided in 5-11-210.

(c) If the secretary of state recommends statutory changes or anticipates requesting an appropriation from the 62nd legislature as a result of the investigation, the secretary of state shall, at a time requested by the state administration and veterans' affairs interim committee, present to the committee the concept for the legislation, appropriation, or both.

(3) The state administration and veterans' affairs interim committee shall consider the proposal for legislation as required in 5-5-215."

Renumber: subsequent section

12. Page 4, line 6.

Following: "Section"

Strike: "2"

Insert: "3"

Strike: "2010"

Insert: "2012"

And, as amended, do pass. Report adopted.

SB 413, introduced bill, be amended as follows:

1. Title, line 4 through line 7.

Strike: "GENERALLY" on line 4 through "DOCUMENTS," on line 7

2. Title, line 8.

Strike: "SECTIONS" through "AND"

Insert: "SECTION"

3. Page 1.

Strike: line 11 through line 26 in their entirety

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

4. Page 1, line 30 through page 3, line, 1.
Strike: section 1 through section 2 in their entirety
Renumber: subsequent section

5. Page 3, line 10 through line 11.
Strike: section 4 in its entirety

And, as amended, do pass. Report adopted.

SB 469, introduced bill, be amended as follows:

1. Title, line 7.
Following: "ELECTION;"
Insert: "PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;"

2. Title, line 9.
Strike: the second "AND"

3. Title, line 10.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

4. Page 13.
Following: line 24
Insert: "NEW SECTION. **Section 18. Effective date.** If approved by the electorate, this act is effective January 1, 2011."

Insert: "NEW SECTION. **Section 19. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2010 by printing on the ballot the full title of this act and the following:

- ☐ FOR allowing an elector to vote for any candidate in a primary election irrespective of the candidate's political party affiliation.
- ☐ AGAINST allowing an elector to vote for any candidate in a primary election irrespective of the candidate's political party affiliation."

And, as amended, do pass. Report adopted.

SB 484, do pass. Report adopted.

SB 488, do pass. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 310 - Senator Shockley moved **SB 310** do pass. Motion carried as follows:

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Yeas: Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Bales, Balyeat, Barrett, Brenden, Hinkle, McGee, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila.

Total 11

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 369 - Senator Esp moved **SB 369** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 396 - Senator Story moved **SB 396** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

SB 417 - Senator Keane moved **SB 417** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Larsen, Laslovich, Moss, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 22

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 432 - Senator R. Brown moved **SB 432** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SB 448 - Senator Keane moved **SB 448** do pass. Motion **failed** as follows:

Yeas: Bales, Barkus, Black, Branae, Brueggeman, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Keane, Laible, Larsen, Laslovich, Lewis, Murphy, Ripley, Tutvedt, Williams, Windy Boy, Zinke.

Total 24

Nays: Balyeat, Barrett, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Hawks, Hinkle, Jackson, Juneau, Kaufmann, McGee, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

SB 448 - Senator Esp moved **SB 448** be **indefinitely postponed**. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Hamlett, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Larsen, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Mr. President.
Total 31

Nays: Bales, Branae, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Keane, Laible, Laslovich, Lewis, Murphy, Tutvedt, Williams, Windy Boy, Zinke.
Total 18

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

Senator McGee assumed the chair.

SB 391 - Senator Brueggeman moved **SB 391** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

SR 7 - Senator Steinbeisser moved that the nomination of Brett DeBruycker, transmitted by the Governor, be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 7, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke,

SENATE JOURNAL
FORTY-FIRST LEGISLATIVE DAY - FEBRUARY 21, 2009

Mr. President.
Total 48

Nays: Barrett.
Total 1

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, February 23, 2009. Motion carried.

Senate adjourned at 1:21 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-SECOND LEGISLATIVE DAY**

Helena, Montana
February 23, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Squires, excused. Quorum present.

BILLS AND JOURNALS:

2/23/2009

Correctly printed: **SB 231, SB 300, SB 303, SB 306, SB 310, SB 333, SB 356, SB 369, SB 373, SB 379, SB 381, SB 391, SB 396, SB 398, SB 404, SB 417, SB 432, SB 434, SB 439, SB 440, SB 444, SB 447, SB 451, SB 461, SB 464, SB 471, SB 476, SB 481, SB 484, SB 485, SB 488, SB 498, SJR 20, SJR 21, SJR 26, SR 3.**

Correctly engrossed: **SB 241, SB 278, SB 291, SB 326, SB 327, SB 345, SB 348, SB 351, SB 367, SB 374, SB 382, SB 409, SB 411, SB 413, SB 426, SB 427, SB 431, SB 441, SB 442, SB 446, SB 457, SB 468, SB 482, SB 469, SB 493.**

Correctly enrolled: **SR 4, SR 5, SR 6, SR 7.**

Examined by the sponsor and found to be correct: **SR 4, SR 5, SR 6, SR 7.**

REPORTS OF STANDING COMMITTEES

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

2/20/2009

SB 424, introduced bill, be amended as follows:

1. Page 2, line 20.

Strike: the second "a"

Insert: "the"

Following: "brand"

Insert: "of a"

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

2/23/2009

SJR 29, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

2/23/2009

SB 445, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "PRACTITIONER"

Insert: "WITH A PERMIT"

2. Page 2, following line 3.

Insert: "(3) For purposes of this section, a medical practitioner dispensing a prescription pursuant to subsection (2)(d)(ii) shall apply to the board of medical examiners for a written permit to dispense prescription drugs except that a written permit is not required in order to dispense drug samples. If a medical practitioner violates the provisions of this section governing the dispensing of prescription drugs, the medical practitioner's dispensing permit must be revoked and the medical practitioner is subject to disciplinary actions by the board of medical examiners.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

(4) The dispensing of drugs pursuant to subsection (2) does not allow a medical practitioner to dispense any narcotic drugs as defined in 50-32-101.

(5) For purposes of this section, "employer-based onsite clinic" means a health care facility, as defined in 50-16-504, that is sponsored by an employer for the benefit of its employees and their dependents."

And, as amended, do pass. Report adopted.

SB 463, introduced bill, be amended as follows:

1. Page 1, line 13.

Following: "on"

Insert: "labor law and"

2. Page 1, line 15.

Following: "on the"

Strike: "methods that"

Insert: "labor law requirements applicable to"

3. Page 1, lines 15 and 16.

Strike: "may" on line 15 through "law" on line 16

4. Page 1, line 21.

Following: "for"

Insert: "the"

Following: "funds"

Strike: "under this section"

Insert: "available from the department"

5. Page 1, line 23.

Following: "training"

Strike: ", "

Insert: "and has"

6. Page 1, line 24 through line 25.

Following: "materials"

Strike: ", and" on line 24 through "guardian" on line 25

7. Page 1, line 27.

Following: "(1)"

Strike: "An"

Insert: "Contingent upon approval of the program by the federal government for purposes of receiving federal medicaid funds, the department may make payment to an"

8. Page 1, line 28.

Following: "through"

Insert: "the"

9. Page 1, line 30.

Following: "29 U.S.C. 213"

Insert: "and who"

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

10. Page 2, line 3.

Following: "qualified"

Insert: "medicaid"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

2/19/2009

SB 20, introduced bill, be amended as follows:

1. Title, line 5.

Following: the second "AN ACT"

Insert: "CLARIFYING THE MEANING OF THE TERM "SUBSTANTIAL COMPLIANCE";"

2. Title, line 6.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "2-4-101"

Insert: "AND 2-4-305"

3. Page 1, line 16 through line 17.

Following: "(MAPA)" on line 16

Strike: remainder of line 16 through "MSA" on line 17

4. Page 1, line 25 through page 2, line 12.

Strike: Page 1, line 25 through page 2, line 12 in their entirety

Insert: "WHEREAS, under the rationale employed by the Montana Supreme Court in the MSA opinion, every rule adopted by an agency could be found to be in substantial compliance with MAPA since every notice of proposed rulemaking gives some notice of a proposed rule adoption, amendment, or repeal; and

WHEREAS, the Legislature intends that a determination of whether MAPA's substantial compliance requirement in section 2-

4-305(7), MCA, has been satisfied requires an analysis of more than whether an agency provided adequate public notice of its proposed rule, but rather requires an analysis of whether the agency complied with 2-4-302, 2-4-303, 2-4-305, or 2-4-306, MCA; and

WHEREAS, enactment of this legislation is not intended by the Legislature as a comment upon the outcome of the MSA opinion, but rather is intended to change the analysis used by the courts when determining whether MAPA's substantial compliance requirement, found in section 2-4-305(7), MCA, has been satisfied in future cases."

5. Page 2, line 19.

Strike: "One purpose"

Insert: "The purposes"

Strike: "is"

Insert: "are"

Following: the first "to"

Insert: ": (a)"

6. Page 2, line 20.

Following: "that action"

Insert: ";

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

(b) establish general uniformity and due process safeguards in agency rulemaking, legislative review of rules, and contested case proceedings;

(c) establish standards for judicial review of agency rules and final agency decisions; and

(d) provide the executive and judicial branches of government with statutory directives"

7. Page 2, line 23.

Strike: subsection (3) in its entirety

Insert: "Section 2. Section 2-4-305, MCA, is amended to read:

"2-4-305. Requisites for validity -- authority and statement of reasons. (1) The agency shall fully consider written and oral submissions respecting the proposed rule. Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement the reasons for overruling the considerations urged against its adoption. If substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted rule as that rule is printed in the register, the differences must be described in the statement of reasons for and against agency action. When written or oral submissions have not been received, an agency may omit the statement of reasons.

(2) Rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference must clearly indicate the portion of the language that is statutory and the portion that is an amplification of the language.

(3) Each proposed and adopted rule must include a citation to the specific grant of rulemaking authority pursuant to which the rule or any part of the rule is adopted. In addition, each proposed and adopted rule must include a citation to the specific section or sections in the Montana Code Annotated that the rule purports to implement. A substantive rule may not be proposed or adopted unless:

(a) a statute granting the agency authority to adopt rules clearly and specifically lists the subject matter of the rule as a subject upon which the agency shall or may adopt rules; or

(b) the rule implements and relates to a subject matter or an agency function that is clearly and specifically included in a statute to which the grant of rulemaking authority extends.

(4) Each rule that is proposed and adopted by an agency and that implements a policy of a governing board or commission must include a citation to and description of the policy implemented. Each agency rule implementing a policy and the policy itself must be based on legal authority and otherwise comply with the requisites for validity of rules established by this chapter.

(5) To be effective, each substantive rule adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

(6) Whenever by the express or implied terms of any statute a state agency has authority to adopt rules to implement, interpret, make specific, or otherwise carry out the provisions of the statute, an adoption, amendment, or repeal of a rule is not valid or effective unless it is:

(a) consistent and not in conflict with the statute; and

(b) reasonably necessary to effectuate the purpose of the statute. A statute mandating that the agency adopt rules establishes the necessity for rules but does not, standing alone, constitute reasonable necessity for a rule. The agency shall also address the reasonableness component of the reasonable necessity requirement by, as indicated in 2-4-302(1) and subsection (1) of this section, stating the principal reasons and the rationale for its intended action and for the particular approach that it takes in complying with the mandate to adopt rules. Subject to the provisions of subsection (8), reasonable necessity must be clearly and thoroughly demonstrated for each adoption, amendment, or repeal of a rule in the agency's notice of proposed rulemaking and in the written and oral data, views, comments, or testimony submitted by the public or the agency and considered by the agency. A statement that merely explains what the rule provides is not a statement of the reasonable necessity for the rule.

(7) A rule is not valid unless notice of it is given and it is adopted in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section and unless notice of adoption of the rule is published within 6 months of the publishing of notice of the proposed rule. The measure of whether an agency has adopted a rule in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section is not whether the agency has provided notice of the proposed rule, standing alone, but rather must be based on an analysis of the agency's substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section. If an amended or supplemental notice of either proposed or final

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

rulemaking, or both, is published concerning the same rule, the 6-month limit must be determined with reference to the latest notice in all cases.

(8) An agency may use an amended proposal notice or the adoption notice to correct deficiencies in citations of authority for rules and in citations of sections implemented by rules. An agency may use an amended proposal notice but, except for clerical corrections, may not use the adoption notice to correct deficiencies in a statement of reasonable necessity.

(9) If a majority of the members of the appropriate administrative rule review committee notify the committee presiding officer that those members object to a notice of proposed rulemaking, the committee shall notify the agency in writing that the committee objects to the proposal notice and will address the objections at the next committee meeting. Following notice by the committee to the agency, the proposal notice may not be adopted until publication of the last issue of the register that is published before expiration of the 6-month period during which the adoption notice must be published, unless prior to that time, the committee meets and does not make the same objection. A copy of the committee's notification to the agency must be included in the committee's records."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

2/23/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 2:00 p.m., Saturday, February 21, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Amy Carlin, Kalispell
	Brad Carlin, Kalispell
	Rollie Goodman, Bozeman
	Matthew Wheat, Bozeman
	Alec Truax, Helena
	Colton Stephens, Choteau
	Elizabeth McGee, Laurel
	Jessica Englert, Laurel

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 23, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Emma Boreson, Opheim
	Meghan Rogers, Ulm
	Kelsie Hanson, Chinook
	Courtney Platko, Sheridan
	Echo Allen, Fairfield
	Leann Dorvall, Bridger
	Tanner Beaman, Lakeside

Report Adopted.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/19/2009

HB 34, introduced by Wilmer
HB 171, introduced by Augare
HB 204, introduced by Ebinger
HB 357, introduced by Berry
HB 477, introduced by Menahan
HB 495, introduced by Arntzen
HB 533, introduced by Taylor

House joint resolution passed and transmitted to the Senate for concurrence: 2/19/2009

HJR 15, introduced by Milburn

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 499, introduced by Essmann, Bales, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 101, introduced by Welborn (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.
HB 102, introduced by Smith, referred to Judiciary.
HB 104, introduced by French (by request of the Department of Military Affairs), referred to Finance and Claims.
HB 106, introduced by French (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.
HB 107, introduced by Hiner (by request of the Legislative Finance Committee), referred to Finance and Claims.
HB 108, introduced by Hollenbaugh (by request of the Department of Justice), referred to Judiciary.
HB 109, introduced by Hunter (by request of the Public Employees' Retirement Board), referred to State Administration.
HB 112, introduced by Sesso (by request of the Legislative Finance Committee), referred to Finance and Claims.
HB 114, introduced by Henry (by request of the Department of Public Health and Human Services), referred to Business, Labor, and Economic Affairs.
HB 116, introduced by McNutt (by request of the Attorney General), referred to Highways and Transportation.
HB 118, introduced by Klock (by request of the Department of Administration), referred to Energy and Telecommunications.
HB 119, introduced by Hunter (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.
HB 120, introduced by McChesney (by request of the Department of Transportation), referred to Highways and Transportation.
HB 121, introduced by Cohenour (by request of the Department of Military Affairs), referred to Judiciary.
HB 122, introduced by Menahan (by request of the Department of Justice), referred to Judiciary.
HB 123, introduced by Jones (by request of the Department of Agriculture, Department of Commerce), referred to Finance and Claims.
HB 125, introduced by Mehlhoff (by request of the Department of Transportation), referred to Highways and Transportation.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

HB 126, introduced by Augare (by request of the Department of Administration), referred to Business, Labor, and Economic Affairs.

HB 127, introduced by Sesso (by request of the Department of Military Affairs), referred to Finance and Claims.

HB 128, introduced by Sesso (by request of the Legislative Finance Committee), referred to Finance and Claims.

HB 129, introduced by Getz (by request of the Department of Natural Resources and Conservation), referred to Local Government.

HB 133, introduced by Stoker (by request of the Department of Public Health and Human Services), referred to Judiciary.

HB 136, introduced by Boland (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 137, introduced by McNutt (by request of the Department of Fish, Wildlife, and Parks), referred to Fish and Game.

HB 138, introduced by Hunter (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 139, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.

HB 140, introduced by Vincent (by request of the Fire Suppression Committee), referred to Natural Resources.

HB 144, introduced by McAlpin (by request of the Legislative Council), referred to State Administration.

HB 146, introduced by MacLaren (by request of the Commissioner of Political Practices), referred to State Administration.

HB 147, introduced by MacLaren (by request of the Commissioner of Political Practices), referred to State Administration.

HB 149, introduced by Menahan (by request of the Department of Corrections), referred to Judiciary.

HB 150, introduced by D. Brown, referred to Judiciary.

HB 151, introduced by Becker (by request of the State Auditor), referred to Public Health, Welfare and Safety.

HB 153, introduced by Hands (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 155, introduced by Pomnichowski (by request of the Department of Administration), referred to State Administration.

HB 156, introduced by Pomnichowski, referred to Local Government.

HB 157, introduced by Hunter (by request of the Department of Public Health and Human Services), referred to Public Health, Welfare and Safety.

HB 158, introduced by Augare (by request of the Governor), referred to Finance and Claims.

HB 159, introduced by Augare (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.

HB 160, introduced by Furey (by request of the State Auditor), referred to Business, Labor, and Economic Affairs.

HB 163, introduced by Cohenour (by request of the Department of Commerce), referred to Taxation.

HB 168, introduced by Roundstone (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

HB 170, introduced by Menahan (by request of the Public Employees' Retirement Board), referred to State Administration.

HB 172, introduced by Arntzen, referred to Fish and Game.

HB 177, introduced by Kottel, referred to Judiciary.

HB 179, introduced by Villa, referred to Energy and Telecommunications.

HB 181, introduced by K. Peterson, T. Brown, Essmann, O'Hara, Glaser, referred to Local Government.

HB 188, introduced by Kottel, Pomnichowski, Erickson, Augare, Phillips, Reinhart, Nooney, Villa, referred to Judiciary.

HB 190, introduced by Van Dyk, P. Beck, Cohenour, Essmann, Gallus, Jent, MacLaren, O'Hara, Pomnichowski, Shockley, Stahl, Steenson, Brueggeman, Blewett, Caferro, Furey, Gillan, referred to Fish and Game.

HB 192, introduced by Taylor, referred to State Administration.

HB 193, introduced by Augare, Stewart-Peregoy, Juneau, Belcourt, Calf Boss Ribs, Campbell, French, Pease-Lopez, Roundstone, Windy Boy, referred to State Administration.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

- HB 195**, introduced by Hamilton, referred to Business, Labor, and Economic Affairs.
- HB 197**, introduced by Ebinger, McClafferty, Reinhart, Sesso, referred to State Administration.
- HB 203**, introduced by Miller, Bean, Blasdel, Butcher, Randall, , K. Peterson, referred to Fish and Game.
- HB 205**, introduced by Ebinger, Hollenbaugh, Blewett, Kottel, Brueggeman, referred to Judiciary.
- HB 207**, introduced by Klock, referred to Energy and Telecommunications.
- HB 208**, introduced by O'Hara, referred to Energy and Telecommunications.
- HB 214**, introduced by MacDonald, Caferro, Becker, McClafferty, Calf Boss Ribs, referred to Public Health, Welfare and Safety.
- HB 221**, introduced by Cohenour, McAlpin, Malek, French, Getz, , Fleming, Menahan, Hands, Blewett, Belcourt, McClafferty, Calf Boss Ribs, Boland, Campbell, B. Beck, Pease-Lopez, Hiner, Hunter, MacDonald, Steenson, Van Dyk, Roundstone, Augare, referred to Fish and Game.
- HB 222**, introduced by Cohenour, Van Dyk, referred to Fish and Game.
- HB 223**, introduced by Cohenour, Van Dyk, referred to Fish and Game.
- HB 228**, introduced by Kerns, Ankney, Arntzen, Balyeat, Bennett, Black, Blasdel, Boniek, R. Brown, T. Brown, Campbell, Curtiss, Gallus, Hamlett, Hendrick, Hinkle, Hoven, Ingraham, Jackson, Jones, Kottel, McGee, Mehlhoff, Miller, More, Randall, Roundstone, Smith, Sonju, Vance, Warburton, referred to Judiciary.
- HB 230**, introduced by McClafferty, Ebinger, Sesso, Malek, Cohenour, Calf Boss Ribs, P. Noonan,, MacDonald, referred to Local Government.
- HB 231**, introduced by Glaser, T. Brown, Hamilton, referred to Local Government.
- HB 235**, introduced by Kottel, referred to Taxation.
- HB 238**, introduced by Milburn, referred to Highways and Transportation.
- HB 242**, introduced by McAlpin, referred to Judiciary.
- HB 243**, introduced by Hunter, McGee, referred to Public Health, Welfare and Safety.
- HB 244**, introduced by Ankney, referred to Local Government.
- HB 245**, introduced by Ankney, referred to Local Government.
- HB 247**, introduced by Bergren, J. Peterson, referred to Agriculture, Livestock and Irrigation.
- HB 263**, introduced by Smith, referred to Public Health, Welfare and Safety.
- HB 264**, introduced by Smith, referred to Public Health, Welfare and Safety.
- HB 269**, introduced by Mehlhoff, Belcourt, referred to Judiciary.
- HB 270**, introduced by Reinhart, Hands, Phillips, Sesso, McClafferty, MacDonald, McAlpin, Sands, Mehlhoff, A. Noonan, Ebinger, Hamilton, P. Noonan, Dick Barrett, referred to Local Government.
- HB 273**, introduced by O'Hara, referred to Local Government.
- HB 274**, introduced by Hamilton, referred to Finance and Claims.
- HB 278**, introduced by McChesney, Ankney, referred to Natural Resources.
- HB 283**, introduced by Himmelberger, referred to Business, Labor, and Economic Affairs.
- HB 285**, introduced by Reinhart, Arntzen, Dick Barrett, Bennett, Cooney, Gebhardt, Laslovich, MacDonald, McAlpin, Mendenhall, Milburn, Perry, Ripley, Sands, Sesso, Stahl, Van Dyk, Vincent, referred to Natural Resources.
- HB 286**, introduced by Sonju, referred to Business, Labor, and Economic Affairs.
- HB 287**, introduced by Driscoll, B. Beck, Keane, Taylor, Villa, referred to Judiciary.
- HB 288**, introduced by Kerns, McGee, referred to Judiciary.
- HB 291**, introduced by Sonju, referred to Business, Labor, and Economic Affairs.
- HB 293**, introduced by Hiner, Villa, referred to Judiciary.
- HB 294**, introduced by MacLaren, Blasdel, Erickson, Gallus, Lewis, Perry, Sesso, Villa, Wanzenried, Windy Boy, referred to Energy and Telecommunications.
- HB 295**, introduced by Menahan, Driscoll, Essmann, Hollenbaugh, Howard, Jones, MacDonald, Moss, O'Hara, Perry, Wilson (by request of the Attorney General), referred to Judiciary.
- HB 296**, introduced by Menahan, Stewart-Peregoy, Juneau, Augare, Calf Boss Ribs, Campbell, Windy Boy, Roundstone, referred to Fish and Game.
- HB 298**, introduced by Blewett, Shockley, Menahan, Kottel, K. Peterson, referred to Judiciary.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

HB 301, introduced by Kottel, referred to Judiciary.

HB 304, introduced by Sonju, referred to Highways and Transportation.

HB 308, introduced by Augare, Blewett, Boland, Dickenson, Hamilton, Hoven, Kottel, O'Hara, Mehlhoff, Milburn, referred to Judiciary.

HB 311, introduced by Blasdel, referred to Highways and Transportation.

HB 317, introduced by Furey, Ankney, referred to Fish and Game.

HB 321, introduced by Cohenour, referred to Local Government.

HB 324, introduced by Arntzen, Zinke, Hendrick, Klock, Miller, Furey, Ripley, Warburton, R. Brown, French, McClafferty, Laslovich, Blewett, Van Dyk, Belcourt, Hansen, Regier, P. Noonan, McGillvray, Lewis, Hiner, Bennett, Nooney, Bean, Morgan, Howard, Taylor, Mendenhall, D. Brown, Vance, Ankney, Wilson, Smith, Boniek, Hoven, Mehlhoff, Curtiss, McChesney, Kasten, Butcher, Blasdel, Phillips, Hollandsworth, Villa, Hamilton, K. Peterson, Roundstone, Barkus, Essmann, Himmelberger, Jones, McNutt, Randall, Tutvedt, P. Beck, Welborn, referred to Local Government.

HB 326, introduced by Mendenhall, referred to Business, Labor, and Economic Affairs.

HB 328, introduced by MacLaren, referred to State Administration.

HB 332, introduced by Getz, Hamilton, Villa, Cohenour, referred to Education and Cultural Resources.

HB 337, introduced by Blewett, referred to Fish and Game.

HB 338, introduced by Ankney, O'Hara, Berry, Klock, Mehlhoff, referred to Energy and Telecommunications.

HB 343, introduced by A. Noonan, Keane, Black, Brenden, Laible, Williams, Klock, Hiner, McNutt, Augare, Campbell, referred to Energy and Telecommunications.

HB 345, introduced by K. Peterson, Shockley, referred to Business, Labor, and Economic Affairs.

HB 354, introduced by Glaser, Bergren, Gebhardt, referred to Business, Labor, and Economic Affairs.

HB 363, introduced by Jones, Black, Arntzen, Glaser, Steenson, Hollandsworth, referred to Education and Cultural Resources.

HB 365, introduced by Roberts (by request of the State Auditor), referred to Public Health, Welfare and Safety.

HB 366, introduced by McGillvray, R. Brown, Balyeat, Essmann, Howard, Becker, K. Peterson, Himmelberger, Morgan, Kerns, P. Beck, Randall, Roberts, Smith, Ankney, Arntzen, Glaser, referred to Fish and Game.

HB 367, introduced by McGillvray, R. Brown, Caferro, Sands, Smith, Reichner, referred to Public Health, Welfare and Safety.

HB 368, introduced by Fleming, Larsen, Furey, referred to Agriculture, Livestock and Irrigation.

HB 371, introduced by Cohenour, Barkus, Getz, Wilson, referred to Highways and Transportation.

HB 372, introduced by Wilmer, Boland, Calf Boss Ribs, Caferro, Campbell, Driscoll, French, Furey, Grinde, Hands, Henry, Jopek, MacDonald, Malek, McClafferty, Menahan, A. Noonan, Pease-Lopez, Pomnichowski, Villa, referred to Judiciary.

HB 373, introduced by Wilmer, Fleming, Furey, MacLaren, A. Noonan, referred to Highways and Transportation.

HB 374, introduced by Arntzen, Jones, McAlpin, Wilson, Klock, Augare, referred to Business, Labor, and Economic Affairs.

HB 378, introduced by Blasdel, Wanzenried, referred to Business, Labor, and Economic Affairs.

HB 380, introduced by Stahl, Jones, referred to Highways and Transportation.

HB 382, introduced by Hamilton, Boniek, Vincent, referred to Fish and Game.

HB 383, introduced by Arntzen, D. Brown, Cohenour, Hamilton, Hendrick, Klock, Ingraham, Menahan, O'Hara, Phillips, Pomnichowski, Taylor, Vincent, Squires, Story, Bean, B. Beck, Butcher, Cooney, Milburn, Miller, Reichner, Sonju, referred to Fish and Game.

HB 384, introduced by Villa, referred to State Administration.

HB 387, introduced by Reichner, referred to Business, Labor, and Economic Affairs.

HB 397, introduced by Kottel, referred to Judiciary.

HB 400, introduced by Kottel, Augare, P. Beck, Calf Boss Ribs, Driscoll, Hamilton, Hendrick, Hiner, Hunter, Jones, MacDonald, Morgan, P. Noonan, Nooney, Sesso, Taylor, A. Noonan, MacLaren, Blasdel, Brueggeman, Himmelberger, Hollenbaugh, Hoven, McChesney, Phillips, Vance, Villa, Wagner, Wanzenried, Wilson, referred to Business, Labor, and Economic Affairs.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

HB 403, introduced by Kottel, referred to Judiciary.

HB 412, introduced by Wiseman, Mendenhall, referred to Business, Labor, and Economic Affairs.

HB 426, introduced by Milburn, referred to Local Government.

HB 428, introduced by Pomnichowski, referred to Local Government.

MOTIONS

Senator Peterson moved that a recess be held to allow Republican and Democrat caucuses, and the Senate reconvene at 1:30 p.m. Motion carried.

Roll Call. All members present, except Senator Squires, excused. Quorum present.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 8 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 231 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Excused: Squires.
Total 1

SB 287 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Kaufmann, Laible, Laslovich, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 32

Nays: Branae, Brenden, Brueggeman, Cooney, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Keane, Larsen, Lewis, Moss, Schmidt, J. Tropila, M. Tropila, Wanzenried.
Total 18

Paired: Squires, Aye; Gillan, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 300 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Balyeat, Hinkle, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Windy Boy.
Total 8

Paired: Laslovich, Aye; Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 306 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Erickson, Kaufmann.
Total 2

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 310 passed as follows:

Yeas: Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Bales, Balyeat, Barrett, Brenden, Curtiss, Hinkle, Juneau, McGee, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried.
Total 14

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 356 passed as follows:

Yeas: Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 31

Nays: Bales, Balyeat, Barkus, Black, Brenden, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, McGee, Murphy, Ripley, Steinbeisser, Tutvedt, Mr. President.
Total 19

Paired: Squires, Aye; Essmann, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 369 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 391 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 396 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Barrett.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 404 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke,

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 417 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Mr. President.
Total 29

Nays: Branae, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 21

Paired: Essmann, Aye; Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 432 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

SB 451 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Barrett.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SJR 20 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SJR 26 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Curtiss, Esp, McGee.

Total 3

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Excused: Squires.
Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Wanzenried in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 234 - Senator Gillan moved **SB 234** do pass. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Ripley, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Esp, Hinkle, Jackson, Murphy, Perry, Peterson, Steinbeisser, Tutvedt, Zinke.
Total 14

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 257 - Senator Keane moved **SB 257** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Juneau, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Branae, Cooney, Erickson, Hansen, Hawks, Jent, Kaufmann, Larsen, Moss, Wanzenried, Williams.
Total 11

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 263 - Senator Shockley moved **SB 263** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann,

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Juneau, Stewart-Peregoy.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 285 - Senator Jent moved **SB 285** do pass.

SB 285 - Senator Shockley moved **SB 285**, second reading copy, be amended as follows:

1. Page 1, line 23.

Following: "(3)"

Insert: "(a)"

2. Page 1, line 23 through line 24.

Following: "if" on line 23

Strike: remainder of line 23 through "(a)" on line 24

3. Page 1, line 25.

Following: "court"

Strike: " ; or "

Insert: ". "

4. Page 1, line 26 through line 27.

Strike: subsection (b) in its entirety

Insert: "(b) The attorney fees awarded under this subsection (3) are limited to fees for compensable medical benefits received by the claimant and denied by the insurer for dates of service from the date of termination or date of denial through the date of the court's order. The fees must be calculated using the hourly rate or contingency percentage in the attorney's contract of employment filed and approved by the department under 39-71-613."

5. Page 1, line 28.

Following: "insurer"

Insert: "or claimant's attorney"

Following: "provider"

Insert: "or claimant"

6. Page 1, line 29.

Following: "section"

Insert: "or under 39-71-614 for medical benefits received after the date of the court's order"

7. Page 2, line 2.

Strike: "subsection"

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Insert: "subsections"

Following: "(3)"

Insert: "and (4)"

8. Page 2, line 27.

Following: line 26

Insert: "(c) The attorney fees awarded under this subsection (4) are limited to fees for compensable medical benefits received by the claimant and denied by the insurer for dates of service from the date of the written offer of payment through the date of the court's order. The fees must be calculated using the hourly rate or contingency percentage in the attorney's contract of employment filed and approved by the department under 39-71-613."

9. Page 2, line 27.

Following: "insurer"

Insert: "or claimant's attorney"

Following: "provider"

Insert: "or claimant"

10. Page 2, line 28.

Following: "section"

Insert: "or under 39-71-614 for medical benefits received after the date of the court's order"

11. Page 3, line 1.

Strike: "subsection"

Insert: "subsections"

Following: "(4)"

Insert: "and (5)"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 39

Nays: Esp, Hinkle, Jackson, Kaufmann, Laslovich, Perry, Peterson, Ripley, Steinbeisser, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 285 - Senator Jent moved **SB 285**, as amended, do pass. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, McGee, Moss, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 25

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 292 - Senator Gebhardt moved **SB 292** do pass.

SB 292 - Senator Gebhardt moved **SB 292**, second reading copy, be amended as follows:

1. Page 3, line 12.

Following: "Surface"

Insert: "Auger"

Strike: "and Auger"

2. Page 3, line 13.

Following: the first "Mining"

Insert: "Mining"

3. Page 3, line 14.

Following: the first "value"

Insert: "3.75% of value"

4. Page 3, line 15.

Following: the first "value"

Insert: "5% of value"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

SB 292 - Senator Hamlett moved **SB 292**, second reading copy, be amended as follows:

1. Page 3, line 12.

Following: "Surface"

Insert: "Auger"

Strike: "and Auger"

2. Page 3, line 13.

Following: the first "Mining"

Insert: "Mining"

3. Page 3, line 14.

Following: the first "value"

Insert: "4.9% of value"

4. Page 3, line 15.

Following: the first "value"

Insert: "7.4% of value"

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 292 - Senator Gebhardt moved **SB 292**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.

Total 35

Nays: Cooney, Erickson, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Stewart-Peregoy, M. Tropila, Williams, Windy Boy.

Total 14

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Excused: Squires.
Total 1

SB 305 - Senator Tutvedt moved **SB 305** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 337 - Senator Brenden moved **SB 337** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: Balyeat, Squires.
Total 2

SB 399 - Senator J. Peterson moved consideration of **SB 399** be placed at the top of the second reading board. Motion carried.

SB 399 - Senator Laslovich moved **SB 399** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 349 - Senator Tutvedt moved **SB 349** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Juneau, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 353 - Senator Black moved **SB 353** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, R. Brown, Hinkle.
Total 3

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 361 - Senator Ripley moved **SB 361** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Laslovich excused at this time.

SB 424 - Senator Barkus moved **SB 424** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SB 436 - Senator Gallus moved **SB 436** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, Brueggeman, Curtiss, Esp, Gallus, Gebhardt, Gillan, Hansen, Hinkle, Jackson, Juneau, Keane, Laible, Larsen, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Stewart-Peregoy, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 34

Nays: R. Brown, T. Brown, Cooney, Erickson, Essmann, Hamlett, Hawks, Jent, Kaufmann, McGee, Perry, Steinbeisser, J. Tropila, Wanzenried.
Total 14

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SB 438 - Senator Juneau moved **SB 438** do pass. Motion carried as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SB 449 - Senator Keane moved **SB 449** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SB 470 - Senator Gallus moved **SB 470** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

SJR 25 - Senator J. Peterson moved **SJR 25** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr.

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Wanzenried moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Bales moved to re-refer **SB 234** to Finance and Claims after second reading. Motion carried.
Senator Bales move to re-refer **SB 263** to Finance and Claims after second reading. Motion carried.

SPECIAL ORDERS OF THE DAY

SR 3 - Senator Brueggeman moved that the following nominations for the Transportation Commission transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 3, and that the ayes and nays be spread upon the journal: Barb Skelton, Billings; Rick Griffith, Butte; and Diann Seymour-Winterburn, Helena.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

Senator Barkus welcomed the Pages for the Week of February 22-25, 2009.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman):
SB 497, introduced bill, be amended as follows:

2/23/2009

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

1. Title, line 4.

Strike: "PROTEST"

Insert: "DEMONSTRATION"

2. Page 1, line 10.

Strike: "protest"

Insert: "demonstration"

3. Page 1, line 14.

Following: "or to"

Strike: "protest"

Insert: "demonstrate"

4. Page 1, line 16.

Strike: "protest"

Insert: "demonstration"

5. Page 1, line 17.

Following: "in a"

Strike: remainder of line 17 through "facility" on line 18

Insert: "lawful demonstration pursuant to subsection (1)"

6. Page 1, line 19.

Following: "in a"

Strike: "protest"

Insert: "lawful demonstration pursuant to subsection (1)"

7. Page 1, line 19.

Following: "person."

Insert: "However, it is not a violation of this subsection for a person to approach within 8 feet of a person who is engaged in a lawful demonstration pursuant to subsection (1) in order to lawfully enter into or exit from a health care facility."

And, as amended, do pass. Report adopted.

MOTIONS

Senator Perry moved to re-refer **SB 461** to Natural Resources. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Curtiss, Esp, Essmann, Hawks, Hinkle, Keane, Laible, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Wanzenried.

Total 19

Nays: Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Jackson, Jent, Juneau, Kaufmann, Larsen, Lewis, McGee, Moss, Murphy, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.

Total 29

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-SECOND LEGISLATIVE DAY - FEBRUARY 23, 2009

Excused: Laslovich, Squires.
Total 2

Senator Cooney moved to re-refer **SB 469** to State Administration. Motion failed as follows:

Yeas: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 20

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: Laslovich, Squires.
Total 2

Senator Cooney appealed to the Rules Committee. Senator Cooney withdrew his request.

Senator Cooney moved to reconsider the action to re-refer **SB 469**. Motion carried.

Senator Cooney moved **SB 469** be re-referred to State Administration. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 10:00 a.m., Tuesday, February 24, 2009. Motion carried.

Senate adjourned at 5:08 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-THIRD LEGISLATIVE DAY**

Helena, Montana
February 24, 2009

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS (Curtiss, Chairman):

2/24/2009

Correctly printed: **SB 200, SB 234, SB 257, SB 263, SB 305, SB 337, SB 349, SB 353, SB 361, SB 399, SB 407, SB 424, SB 436, SB 438, SB 449, SB 470, SB 499, SB 500, SJR 25, SJR 29.**

Correctly engrossed: **SB 20, SB 285, SB 292, SB 445, SB 463, SB 497.**

Correctly enrolled: **SR 3.**

Signed by the Secretary of the Senate at 6:10 p.m., February 23, 2009: **SR 4, SR 5, SR 6, SR 7.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/23/2009

HB 103, introduced by Wilson

HB 386, introduced by O'Hara

MOTIONS

Senator J. Peterson moved the Senate Democrats and Republicans caucus. Motion carried. Senate recessed until 10:26 a.m.

Roll Call. All members present. Quorum present.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 257 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Juneau, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 39

Nays: Cooney, Erickson, Hansen, Hawks, Jent, Kaufmann, Larsen, Moss, Squires, Wanzenried, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 305 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 326 passed as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Zinke, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 337 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 31

Nays: Branae, Cooney, Erickson, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 345 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Lewis.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 349 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Juneau, Kaufmann.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 353 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, R. Brown, Hinkle, Shockley, Steinbeisser.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 361 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 399 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 424 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 436 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, Brueggeman, Esp, Gallus, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Larsen, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, Tutvedt, Williams, Zinke, Mr. President.
Total 28

Nays: Black, Branae, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Laslovich, McGee, Perry, Steinbeisser, J. Tropila, M. Tropila, Wanzenried, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 438 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 47

Nays: Esp, Gebhardt, Mr. President.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 441 passed as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 449 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 457 passed as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Bales, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 470 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 48

Nays: Perry, Mr. President.
Total 2

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 25 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 500, introduced by J. Peterson, referred to Finance and Claims.

MOTIONS

Senator McGee moved that **SB 482** be moved from second reading on the Forty-Fourth Legislative Day and placed on second reading this day. Motion carried.

Senator Bales moved to re-refer **SB 183** from the Committee of the Whole to Finance and Claims. Motion carried.

Senator Brueggeman moved that **SB 469** be taken from State Administration, printed, and placed on second reading this day.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hawks, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 32

Nays: Branae, Brenden, Cooney, Gillan, Hamlett, Hansen, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 18

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

Senator Ripley moved that **SB 407** be taken from Agriculture and Irrigation, printed, and placed on second reading this day. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hawks, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Branae, Cooney, Gallus, Hamlett, Hansen, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Erickson moved that **SB 200** be taken from Natural Resources, printed, and placed on second reading this day. Motion carried as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Peterson, Ripley, Steinbeisser, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Hawks moved that **SB 109** be taken from Local Government, printed, and placed on second reading this day. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Gillan moved that **SB 397** be taken from Business and Labor, printed, and placed on second reading. Motion **failed** as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Hamlett moved that **SB 267** be taken from State Administration, printed, and placed on second reading on the Forty-Fourth Legislative Day. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator J. Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading,

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

recommend as follows:

SB 348 - Senator Essmann moved **SB 348** do pass.

SB 348 - Senator Essmann moved **SB 348**, second reading copy, be amended as follows:

1. Title, line 7.

Strike: "90"

Insert: "75"

2. Page 1, line 16.

Strike: "90"

Insert: "75"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Mr. President.

Total 21

Nays: Barkus, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, McGee, Moss, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 348 - Senator Essmann moved **SB 348** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, McGee, Moss, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: R. Brown, Cooney, Hinkle, Jackson, Keane, Laslovich, Lewis, Murphy, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 373 - Senator Perry moved **SB 373** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 21

Nays: Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 373 - Senator Williams moved **SB 373** be **indefinitely postponed**. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 373 - Senator J. Peterson moved consideration of **SB 374** be placed after **SB 411** on second reading this day. Motion carried.

SB 381 - Senator Shockley moved **SB 381** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senate reconvened at 1:00 p.m.

Roll call. Senator Gillan excused. Quorum present.

MOTIONS

Senator Wanzenried moved that **SB 463** be placed on second reading this day. Motion carried.

Senator Williams moved that **SB 321** be taken from Judiciary and placed on second reading. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Kaufman moved that **SB 412** be taken from Public Health, Welfare, and Safety and placed on second reading on the Forty-Fourth Legislative Day. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Senator Hamlett moved that **SB 267** be taken from State Administration and placed on second reading on the Forty-Fourth Legislative Day. Motion carried as follows:

Yeas: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator J. Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 382 - Senator Shockley moved **SB 382** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Nays: Balyeat, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 398 - Senator Zinke moved **SB 398** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen,

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Williams, Zinke, Mr. President.

Total 41

Nays: Erickson, Juneau, Kaufmann, Moss, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 409 - Senator Brueggeman moved **SB 409** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Barrett, Brenden, Esp, Ripley, Steinbeisser.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 411 - Senator Tutvedt moved **SB 411** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Brenden.

Total 1

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 374 - Senator Perry moved **SB 374** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser,

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Tutvedt, Windy Boy, Zinke, Mr. President.
Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 413 - Senator Kaufmann moved **SB 413** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Bales, Barrett, Brenden, Gebhardt, Hinkle, McGee, Perry, Ripley, Steinbeisser.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 426 - Senator Laslovich moved **SB 426** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 427 - Senator Laslovich moved **SB 427** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Gillan, Jent, Schmidt, Stewart-Peregoy.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 431 - Senator R. Brown moved **SB 431** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 434 - Senator Gebhardt moved **SB 434** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Cooney, Gallus, Juneau, Kaufmann, Keane, Laslovich, Stewart-Peregoy, Wanzenried.
Total 8

Absent or not voting: None.
Total 0

Excused: R. Brown.
Total 1

SB 440 - Senator Gebhardt moved **SB 440** do pass. Motion carried as follows:

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 444 - Senator Laslovich moved **SB 444** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 447 - Senator Moss moved **SB 447** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 461 - Senator Brueggeman moved **SB 461** do pass.

SB 461 - Senator Brueggeman moved **SB 461**, second reading copy, be amended as follows:

1. Title, page 1, line 7.

Following: "CIRCUMSTANCES;"

Insert: "ALLOWING AN APPROPRIATOR TO FILE A COMPLAINT OBJECTING TO A CHANGE IN PLACE OF USE;"

2. Page 8.

Following: line 3

Insert: "(19) (a) An appropriator may file a complaint with the department alleging that the change in place of use will adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under Title 85, chapter 2, part 3.

(b) If the department determines after a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the change or make the change subject to terms, conditions, restrictions, or limitations that it considers necessary to protect the rights of other appropriators.

(c) The burden of proof at the hearing is on the appropriator changing the place of use."

Amendment **not** adopted as follows:

Yeas: Balyeat, Brenden, T. Brown, Brueggeman, Gallus, Gebhardt, Hawks, Jackson, Kaufmann, Laslovich, McGee, Perry, M. Tropila, Zinke.

Total 14

Nays: Bales, Barkus, Barrett, Black, Branae, R. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gillan, Hamlett, Hansen, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 36

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 461 - Senator Brueggeman moved **SB 461** do pass. Motion **failed** as follows:

Yeas: R. Brown, Brueggeman, Esp, Gallus, Jackson, Larsen, Laslovich, McGee, Shockley, M. Tropila, Windy Boy.

Total 11

Nays: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 39

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 461 - Senator Williams moved **SB 461** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Mr. President.
Total 43

Nays: Brueggeman, Gallus, Jackson, Kaufmann, Shockley, Windy Boy, Zinke.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 468 - Senator Barkus moved **SB 468** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hawks, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.
Total 32

Nays: Branae, Erickson, Gallus, Hamlett, Hansen, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 471 - Senator Brueggeman moved **SB 471** do pass. Motion carried as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Tutvedt, Mr. President.
Total 21

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 481 - Senator Barkus moved **SB 481** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 21 - Senator Curtiss moved **SJR 21** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 32

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 446 - Senator Story moved **SB 446** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Barrett, Esp, Essmann, Hinkle, Jackson, Laible.
Total 7

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Excused: None.
Total 0

SB 439 - Senator Story moved **SB 439** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Barrett, R. Brown, Essmann, Hinkle, Jackson.
Total 6

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

Roll call: Senator Keane and Senator Gillan excused. Quorum present.

Senator Gillan present.

Senator Keane present.

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator J. Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 200 - Senator Erickson moved **SB 200** do pass.

SB 200 - Senator Erickson moved **SB 200**, second reading copy, be amended as follows:

1. Page 2, line 3.

Strike: "or commercial"

2. Page 2, line 4.

Strike: "and commercial"

3. Page 2, line 7.

Following: "means"

Strike: "elemental phosphorus"

Insert: "the element phosphorus as indicated in the periodic table of elements"

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

4. Page 2, line 10.

Strike: "elemental"

Insert: "the element"

5. Page 2, line 27.

Following: "by"

Insert: "institutional or"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 200 - Senator Erickson moved **SB 200**, as amended, do pass. Motion carried as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Lewis, McGee, Peterson, Ripley, Steinbeisser, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 407 - Senator Ripley moved **SB 407** do pass.

SB 407 - Senator Ripley moved **SB 407**, second reading copy, be amended as follows:

1. Title, page 1, line 6.

Following: "PROCEEDINGS;"

Strike: "AND"

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Following: "MCA"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

2. Page 1, line 13.

Following: "upon"

Insert: "either"

3. Page 2, line 8.

Strike: "87-7-1956"

Insert: "85-7-1956"

4. Page 2, line 15.

Insert: "NEW SECTION. **Section 3. Applicability.** [This act] applies to causes of action brought on or after October 1, 2009."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: J. Tropila.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 407 - Senator Ripley moved **SB 407**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

SB 469 - Senator J. Peterson moved consideration of **SB 469** be passed for the day. Motion carried.

SB 482 - Senator McGee moved **SB 482** do pass.

SB 482 - Senator McGee moved **SB 482**, second reading copy, be amended as follows:

1. Title, line 8.

Following: "~~RECORD~~;"

Insert: "PROVIDING THAT A GOVERNING BODY MAY NOT REQUIRE A PARK DEDICATION FOR A FIRST MINOR SUBDIVISION FROM A TRACT OF RECORD;"

2. Title, line 9.

Following: "76-3-207"

Insert: ", "

Strike: "AND"

Following: "76-3-611,"

Insert: "AND 76-3-621,"

3. Page 7.

Following: line 19

Insert: "**Section 3.** Section 76-3-621, MCA, is amended to read:

"76-3-621. Park dedication requirement. (1) Except as provided in 76-3-509 or subsections (2), (3), and (6) through (9) of this section, a subdivider shall dedicate to the governing body a cash or land donation equal to:

(a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

(b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;

(c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and

(d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

(2) When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under chapter 1 or pursuant to zoning regulations under chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the growth policy or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.

(3) A park dedication may not be required for:

(a) land proposed for subdivision into parcels larger than 5 acres;

(b) subdivision into parcels that are all nonresidential;

(c) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; ~~or~~

(d) a subdivision in which only one additional parcel is created; or

(e) a first minor subdivision from a tract of record as described in 76-3-609(2).

(4) The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.

(5) (a) In accordance with the provisions of subsections (5)(b) and (5)(c), the governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

(b) The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easements only if:

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

(i) the park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and

(ii) the governing body has formally adopted a park plan that establishes the needs and procedures for use of the money.

(c) The governing body may not use more than 50% of the dedicated money for park maintenance.

(6) The local governing body shall waive the park dedication requirement if:

(a) (i) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and

(ii) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (1);

(b) (i) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and

(ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1);

(c) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1); or

(d) (i) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and

(ii) the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (1).

(7) The local governing body may waive the park dedication requirement if:

(a) the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and

(b) the area of the land to be subject to long-term protection, as provided in subsection (7)(a), equals or exceeds the area of the dedication required under subsection (1).

(8) A local governing body may, at its discretion, require a park dedication for a subsequent minor subdivision as described in 76-3-609(3). A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required.

(9) Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (1) to a school district, adequate to be used for school facilities or buildings.

(10) For the purposes of this section:

(a) "cash donation" is the fair market value of the unsubdivided, unimproved land; and

(b) "dwelling unit" means a residential structure in which a person or persons reside.

(11) A land donation under this section may be inside or outside of the subdivision.""

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hansen, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 482 - Senator McGee moved **SB 482**, second reading copy, be amended as follows:

1. Title, line 5.

Following: "~~ACT~~,"

Insert: "REVISING WHAT CONSTITUTES A TRACT OF RECORD FOR THE PURPOSES OF THE SUBDIVISION AND PLATTING ACT;"

2. Title, line 9.

Following: "~~76-3-621~~,"

Insert: "76-3-103,"

Following: "76-3-207"

Insert: ", "

3. Page 3.

Following: line 12

Insert: "**Section 1.** Section 76-3-103, MCA, is amended to read:

"76-3-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(11) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

(12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(13) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23.

(14) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(15) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.

(16) (a) "Tract of record" means an individual parcel of land, irrespective of ownership or instrument of conveyance, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection (16)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hansen, Hinkle, Jackson, Lewis, McGee, Perry, Peterson, Shockley, Tutvedt, Mr. President.

Total 21

Nays: Barrett, Branae, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 482 - Senator McGee moved **SB 482**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 30

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Nays: Branae, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 463 - Senator Wanzenried moved **SB 463** do pass.

SB 463 - Senator Wanzenried moved **SB 463**, second reading copy, be amended as follows:

1. Page 2, line 3.

Following: "29 U.S.C. 213"

Insert: "."

Strike: "AND WHO"

Insert: "A qualified medicaid provider who passes through payment"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Shockley.

Total 1

SB 463 - Senator Wanzenried moved **SB 463**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

SENATE JOURNAL
FORTY-THIRD LEGISLATIVE DAY - FEBRUARY 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Bales moved to re-refer **SB 446** to Finance and Claims. Motion carried.

Senator Story re-assumed the chair.

Senator Brueggeman moved to change his vote on **SB 446** from no to yes. Without objection, so ordered.

Senator McGee moved that **SB 406** be taken from Judiciary and placed on second reading. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Mr. President.
Total 24

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 10:00 a.m., Wednesday, February 25, 2009. Motion carried.

Senate adjourned at 6:39 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
February 25, 2009

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

2/24/2009

Signed by the President at 5:15 p.m., February 24, 2009: **SR 4, SR 5, SR 6, SR 7.**

Correctly enrolled: **SR 3.**

Correctly printed: **SB 267, SB 348, SB 374, SB 381, SB 382, SB 398, SB 406, SB 409, SB 411, SB 413, SB 426, SB 427, SB 431, SB 434, SB 439, SB 440, SB 444, SB 446, SB 447, SB 468, SB 471, SB 481, SJR 21, SB 501.**

Correctly engrossed: **SB 267, HJR 8.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, and twenty-eighth legislative days, find the same to be correct.

Senator Curtiss, Chair

Delivered to the Secretary of State at 9:10 a.m., February 25, 2009: **SR 3, SR 4, SR 5, SR 6, SR 7.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/24/2009

HB 194, introduced by Mendenhall

HB 420, introduced by Reinhart

HB 432, introduced by Mehlhoff

HB 490, introduced by Van Dyk

HB 515, introduced by McAlpin

HB 544, introduced by Vincent

HB 567, introduced by Sonju

House joint resolution passed and transmitted to the Senate for concurrence:

2/24/2009

HJR 22, introduced by O'Hara

House bills passed and transmitted to the Senate for concurrence:

2/25/2009

HB 218, introduced by Menahan

HB 431, introduced by Blewett

HB 443, introduced by Menahan

HB 445, introduced by Hands

HB 531, introduced by Nooney

HB 534, introduced by Campbell

HB 542, introduced by Vance

HB 546, introduced by Pomnichowski

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

HB 563, introduced by Kottel

HB 622, introduced by Himmelberger

HB 628, introduced by Stoker

House joint resolution passed and transmitted to the Senate for concurrence:

2/25/2009

HJR 14, introduced by Warburton

MESSAGES FROM THE GOVERNOR

February 24, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 39** sponsored by Senator Juneau et al. and **Senate Bill 115** sponsored by Senator Kaufmann on February 19, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 501, introduced by Kaufmann, referred to Taxation.

MOTIONS

Senator J. Peterson moved the Senate recess to Caucuses and reconvene at 10:30 a.m. Motion carried.

Senate reconvened at 10:25 a.m.

Roll Call. All members present. Quorum present.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 285 failed as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzonried, Williams, Windy Boy.
Total 24

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 292 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.

Total 38

Nays: Cooney, Erickson, Jent, Juneau, Kaufmann, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Williams, Windy Boy.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 348 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Cooney, Erickson, Hinkle, Keane, Laslovich, Murphy, J. Tropila, M. Tropila.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 374 passed as follows:

Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 381 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 382 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Nays: Balyeat, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 398 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.

Total 39

Nays: Erickson, Gebhardt, Juneau, Kaufmann, Moss, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 409 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Brenden, Hinkle, Ripley, Steinbeisser.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 411 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Brenden.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 413 passed as follows:

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Yeas: Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Bales, Brenden, Gebhardt, McGee, Ripley, Steinbeisser.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 426 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 427 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Gillan, Stewart-Peregoy.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 431 passed as follows:

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 434 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Cooney, Juneau, Kaufmann, Keane, Laslovich, Stewart-Peregoy.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 439 passed as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Balyeat, Barrett, R. Brown, Essmann, Jackson, Laible.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 440 passed as follows:

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 444 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 447 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

SB 468 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hawks, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.
Total 31

Nays: Branae, Erickson, Gallus, Hamlett, Hansen, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 471 passed as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Peterson, Ripley, Shockley, Tutvedt.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 481 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

SJR 21 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 33

Nays: Branae, Cooney, Erickson, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Hawks moved to change his vote on **SB 431** from yes to no. Without objection, so ordered.

Senator Gebhardt moved to change his vote on **SB 285** from yes to no. Without objection, so ordered.

Senator Hamlett moved to change his vote on **SB 381** from yes to no. Without objection, so ordered.

Senator J. Tropila moved to change his vote on **SB 413** from no to yes. Without objection, so ordered.

Senator Squires moved to change her vote on **SB 481** from yes to no. Without objection, so ordered.

Senator McGee moved to take **SB 406** from Judiciary, have the bill printed, and placed on second reading this day.
Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Windy Boy, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 469 - Senator Brueggeman moved **SB 469** do pass. Motion **failed** as follows:

Yeas: Balyeat, Black, R. Brown, T. Brown, Brueggeman, Gallus, Gebhardt, McGee, Ripley, Shockley.
Total 10

Nays: Bales, Barkus, Barrett, Branae, Brenden, Cooney, Curtiss, Erickson, Esp, Essmann, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 40

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 469 - Senator Esp moved **SB 469** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Branae, R. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 40

Nays: Balyeat, Black, Brenden, T. Brown, Brueggeman, Gallus, Jackson, Ripley, Shockley, Zinke.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 20 - Senator Jent moved **SB 20** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Nays: Laible.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 221 - Senator M. Tropila moved **SB 221** do pass. Motion carried as follows:

Yeas: Barkus, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Perry, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 31

Nays: Bales, Balyeat, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, Lewis, McGee, Peterson, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senator Peterson moved the Senate recess until 1:00 p.m. Motion carried.

Roll Call. All members present, except Senator Gallus, excused. Quorum present.

Senator Gallus present.

MOTIONS

Senator Perry moved that **SB 492** be taken from Judiciary and placed on second reading. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Zinke.
Total 23

Nays: Barrett, Branae, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 27

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Excused: None.
Total 0

Senator Shockley moved that **SB 487** be taken from Local Government and placed on second reading this day. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, R. Brown, T. Brown, Brueggeman, Curtiss, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Shockley, Zinke.
Total 18

Nays: Black, Branae, Brenden, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 32

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Laible moved to change his vote on **SB 20** from no to yes. Without objection, so ordered.

Senator Laslovich moved that **HB 235** be re-referred from Taxation to Judiciary. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 286 - Senator T. Brown moved **SB 286** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 45

Nays: Balyeat, Hawks, Jent, Perry, Windy Boy.
Total 5

Absent or not voting: None.
Total 0

Excused: None.

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Total 0

SB 290 - Senator Jackson moved **SB 290** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Cooney, Esp, Hansen, Kaufmann, Moss.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 333 - Senator Balyeat moved **SB 333** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 367 - Senator Hamlett moved **SB 367** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Excused: None.
Total 0

SB 388 - Senator Gillan moved **SB 388** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Brenden, Hinkle, Keane.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 403 - Senator Gebhardt moved **SB 403** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Branae, Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 445 - Senator Branae moved **SB 445** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Brenden, Esp, Gillan, Hansen, Keane, Laible, McGee, Perry, Schmidt, Squires, Tutvedt, Wanzenried.
Total 12

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Excused: None.
Total 0

SB 484 - Senator Balyeat moved **SB 484** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 485 - Senator Juneau moved **SB 485** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 38

Nays: Barrett, Brenden, R. Brown, Esp, Essmann, Hinkle, Jackson, McGee, Peterson, Ripley, Tutvedt, Mr. President.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 267 - Senator Hamlett moved **SB 267** do pass.

SB 267 - Senator Hamlett moved **SB 267**, second reading copy, be amended as follows:

1. Title, line 6.

Strike: "BEFORE" through "RELEASED"

Insert: "; AND CLARIFYING THE RETENTION OF ELECTRONIC COPIES OF CAMPAIGN ADVERTISING RECORDS"

2. Page 1, line 10.

Following: "required"

Insert: "-- retention"

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

3. Page 1, line 13.

Strike: "least " through "before"

Insert: "the time"

4. Page 1, line 16.

Strike: "online"

Insert: "on the commissioner's website"

5. Page 1.

Following: line 17

Insert: "(3) Sixty days after the official canvass of the election for which the commissioner posted the advertisements, the commissioner may remove the information from the website. However, the commissioner shall retain the information as a public record pursuant to 2-6-211."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 267 - Senator Hamlett moved **SB 267**, as amended, do pass. Motion carried as follows:

Yeas: Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 36

Nays: Bales, Balyeat, Barkus, Black, Brenden, Gallus, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Steinbeisser, Tutvedt.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried.

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Senator Peterson moved the committee rise and report. Motion carried. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

Peterson moved the Senate recess until 3:45 p.m. Motion carried.

Roll Call. All members present, except Senators Gillan and Brenden excused. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Senator Gillan present.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HJR 8 - Senator Steinbeisser moved **HJR 8** be concurred in.

HJR 8 - Senator Steinbeisser moved **HJR 8**, second reading copy, be amended as follows:

1. Page 2, line 9 through line 11.

Following: "AN" on line 9

Strike: remainder of line 9 through "OFFICE" on line 11

Insert: "agreement is signed between the Board of Regents and Richland County that ensures payment of all associated operating and maintenance costs by Richland County for the life of the building or until the building is sold"

Amendment adopted as follows:

Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brenden.

Total 1

HJR 8 - Senator Steinbeisser moved **HJR 8**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires,

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Brenden.
Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 94 - Senator Jent moved **SB 94** do pass. Motion carried as follows:

Barkus, Branae, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 34

Nays: Bales, Balyeat, Barrett, Black, R. Brown, T. Brown, Curtiss, Gebhardt, Hamlett, Hinkle, Murphy, Peterson, Ripley, Steinbeisser, Stewart-Peregoy.
Total 15

Absent or not voting: None.
Total 0

Excused: Brenden.
Total 1

SB 199 - Senator Cooney moved **SB 199** do pass. Motion carried as follows:

Yeas: Balyeat, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 36

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Nays: Bales, Barkus, Barrett, R. Brown, Esp, Hinkle, Jackson, Laible, McGee, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 13

Absent or not voting: None.

Total 0

Excused: Brenden.

Total 1

SB 288 - Senator Hinkle moved **SB 288** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 25

Nays: Branae, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Absent or not voting: None.

Total 0

Excused: Brenden.

Total 1

SB 351 - Senator Essmann moved **SB 351** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brenden.

Total 1

SB 442 - Senator Laslovich moved **SB 442** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila,

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Bales, T. Brown, Ripley, Steinbeisser.
Total 4

Absent or not voting: None.
Total 0

Excused: Brenden.
Total 1

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 442** will progress as though it had received the majority vote.

SB 475 - Senator Esp moved **SB 475** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Brenden.
Total 1

SB 493 - Senator Larsen moved **SB 493** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, T. Brown, Cooney, Curtiss, Erickson, Gallus, Hamlett, Hansen, Hawks, Keane, Larsen, Laslovich, Moss, Murphy, Perry, Ripley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 28

Nays: Balyeat, Barrett, R. Brown, Brueggeman, Esp, Essmann, Gebhardt, Gillan, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Lewis, McGee, Peterson, Schmidt, Shockley, Tutvedt, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: Brenden.
Total 1

HB 13 - Senator Lewis moved **HB 13** be concurred in. Motion carried as follows:

SENATE JOURNAL
FORTY-FOURTH LEGISLATIVE DAY - FEBRUARY 25, 2009

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Hinkle, Jackson.

Total 3

Absent or not voting: None.

Total 0

Excused: Brenden.

Total 1

SB 406 - Senator McGee moved **SB 406** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, Windy Boy, Mr. President.

Total 26

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.

Total 23

Absent or not voting: None.

Total 0

Excused: Brenden.

Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Bales moved to re-refer **SB 493** to Finance and Claims after second reading. Motion carried.

Senator Cooney moved to change his third reading vote on **SB 257** from yes to no. Without objection, so ordered.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Thursday, February 26, 2009. Motion carried.

Senate adjourned at 5:34 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
February 26, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brenden and Squires, excused. Quorum present.

BILLS AND JOURNALS:

2/26/2009

Correctly printed: **SB 20, SB 94, SB 199, SB 221, SB 286, SB 288, SB 290, SB 333, SB 351, SB 367, SB 388, SB 403, SB 406, SB 442, SB 445, SB 475, SB 484, SB 485, SB 493, HB 13.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/25/2009

HB 307, introduced by Roberts
HB 331, introduced by Morgan
HB 375, introduced by Phillips
HB 390, introduced by Reinhart
HB 402, introduced by French
HB 409, introduced by Pomnichowski
HB 418, introduced by Butcher
HB 451, introduced by Ebinger
HB 453, introduced by P. Noonan
HB 466, introduced by P. Beck
HB 483, introduced by Jones
HB 486, introduced by MacLaren
HB 488, introduced by Jones
HB 504, introduced by Reinhart
HB 513, introduced by Cohenour
HB 517, introduced by Hollenbaugh
HB 522, introduced by Reinhart
HB 529, introduced by Jones
HB 530, introduced by Arntzen
HB 536, introduced by Malek
HB 545, introduced by Vincent
HB 557, introduced by Belcourt
HB 572, introduced by Pomnichowski
HB 574, introduced by Vincent
HB 584, introduced by A. Noonan
HB 591, introduced by Pease-Lopez
HB 592, introduced by Randall
HB 593, introduced by Villa
HB 602, introduced by Cohenour
HB 608, introduced by Sesso
HB 621, introduced by Wilson
HB 623, introduced by Milburn
HB 626, introduced by Welborn

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

House joint resolutions passed and transmitted to the Senate for concurrence:

2/25/2009

HJR 23, introduced by Augare

HJR 25, introduced by Warburton

HJR 27, introduced by Wilmer

HJR 29, introduced by Becker

HB 362, introduced by Henry, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

2/25/2009

Yeas - 88

Nays - 12

HB 289, introduced by Phillips, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

2/25/2009

Yeas - 51

Nays - 49

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 20 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brenden, Squires.

Total 2

SB 94 passed as follows:

Yeas: Balyeat, Barkus, Branae, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Schmidt, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 34

Nays: Bales, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Gebhardt, Hamlett, Hinkle, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy.

Total 16

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

Paired: Squires, Aye; Brenden, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 199 passed as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 34

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Esp, Hinkle, Jackson, Laible, McGee, Ripley, Steinbeisser, Tutvedt, Mr. President.
Total 16

Paired: Squires, Aye; Brenden, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 200 passed as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 34

Nays: Bales, Balyeat, Barkus, Barrett, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Lewis, McGee, Peterson, Ripley, Steinbeisser, Mr. President.
Total 15

Paired: Squires, Aye; Gebhardt, No.

Absent or not voting: None.
Total 0

Excused: Brenden.
Total 1

SB 221 passed as follows:

Yeas: Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Perry, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

Total 33

Nays: Bales, Balyeat, Barrett, Brenden, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Laible, Lewis, McGee, Peterson, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 17

Paired: Squires, Aye; Brenden, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 267 passed as follows:

Yeas: Barkus, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Bales, Balyeat, Black, Brenden, Gallus, Hinkle, Jackson, Laible, Lewis, McGee, Steinbeisser, Tutvedt.

Total 12

Paired: Squires, Aye; Brenden, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 286 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 44

Nays: Balyeat, Hawks, Jent, Perry, Windy Boy.

Total 5

Paired: Brenden, Aye; Perry, No.

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

SB 288 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Mr. President.

Total 28

Nays: Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 22

Paired: Brenden, Aye; Squires, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 290 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Cooney, Esp, Gallus, Hansen, Juneau, Kaufmann, Moss, Williams.

Total 8

Paired: Brenden, Aye; Esp, No.

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 333 passed as follows:

Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Paired: Brenden, Aye; Squires, No.

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 333** will progress as though it had received the majority vote.

SB 351 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Brenden, Squires.
Total 2

SB 367 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Brenden, Squires.
Total 2

SB 388 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

Nays: Balyeat, Brenden, Hinkle, Keane, McGee, Shockley, Steinbeisser.
Total 7

Paired: Esp, Aye; Brenden, No.

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 403 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 34

Nays: Branae, Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 16

Paired: Brenden, Squires, Aye; Cooney, Hawks, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 406 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Windy Boy, Mr. President.
Total 26

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.
Total 24

Paired: Brenden, Aye; Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 406** will progress as though it had received the majority vote.

SB 407 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Brenden, Squires.
Total 2

SB 442 passed as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Bales, T. Brown, Ripley, Steinbeisser.
Total 4

Paired: Brenden, Aye; T. Brown, No.

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 442** will progress as though it had received the majority vote.

SB 445 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Juneau, Kaufmann, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.
Total 36

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

Nays: Brenden, Esp, Hansen, Hawks, Jent, Keane, Laible, McGee, Perry, Schmidt, Shockley, Squires, Tutvedt, Wanzenried.

Total 14

Paired: Barkus, Laslovich, Aye; Brenden, Squires, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 463 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brenden, Squires.

Total 2

SB 475 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brenden, Squires.

Total 2

SB 482 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 20

Paired: Laslovich, Aye; Squires, No.

Absent or not voting: None.

Total 0

Excused: Brenden.

Total 1

SB 484 failed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 24

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 26

Paired: Brenden, Aye; Squires, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 485 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 36

Nays: Barrett, Brenden, R. Brown, Erickson, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee, Peterson, Ripley, Tutvedt, Mr. President.

Total 14

Paired: Squires, Aye; Brenden, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

HJR 8 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Brenden, Squires.
Total 2

HB 13 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Brenden, Hinkle, Jackson, Shockley.
Total 5

Paired: Squires, Aye; Brenden, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Senator Barkus thanked the Pages for their work during the week of February 23-26, 2009.

MOTIONS

Senator Balyeat moved to reconsider the third-reading vote on **SB 484**.

Senator Williams made a substitute motion that **SB 484** be indefinitely postponed. Motion failed as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

SENATE JOURNAL
FORTY-FIFTH LEGISLATIVE DAY - FEBRUARY 26, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 24

Absent or not voting: Perry.
Total 1

Excused: Brenden, Squires.
Total 2

Motion to reconsider third reading action on **SB 484** failed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 23

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Absent or not voting: Perry.
Total 1

Excused: Brenden, Squires.
Total 2

Majority Leader Peterson moved that the Senate adjourn until 5:00 p.m., Monday, March 2, 2009. Motion carried.

Senate adjourned at 8:38 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
March 2, 2009

Senate Chambers
State Capitol

Senate convened at 5:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brenden, Larsen, Moss, Shockley, Squires, Stewart-Peregoy, Tutvedt, Windy Boy, and Zinke, excused. Quorum present.

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

3/2/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Thursday, February 26, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Emma Boreson, Opheim Meghan Rogers, Ulm Kelsie Hanson, Chinook Courtney Platko, Sheridan Echo Allen, Fairfield Leann Dorvall, Bridger Tanner Beaman, Lake Side

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 2, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Nathaniel Wagner, Kalispell Ann Koenig, Kalispell Mary Kaercher, Havre Taylor Albright, Kalispell Sierra Chambers, Clancy Karlyanne Ryan, Plains Charlene Healy, Dodson

Report Adopted.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 34, introduced by Wilmer (by request of the Teachers' Retirement Board), referred to State Administration.

HB 103, introduced by Wilson (by request of the Public Service Commission), referred to Highways and Transportation.

HB 171, introduced by Augare (by request of the Department of Labor and Industry), referred to Business, Labor, and Economic Affairs.

HB 194, introduced by Mendenhall, referred to Finance and Claims.

HB 204, introduced by Ebinger, Esp, referred to Business, Labor, and Economic Affairs.

SENATE JOURNAL
FORTY-SIXTH LEGISLATIVE DAY - MARCH 2, 2009

HB 218, introduced by Menahan, referred to Fish and Game.

HB 289, introduced by Phillips, referred to State Administration.

HB 307, introduced by Roberts, referred to Public Health, Welfare and Safety.

HB 322, introduced by Blewett, Shockley, K. Peterson, referred to Judiciary.

HB 331, introduced by Morgan, Kaufmann, Gebhardt, Sesso, referred to Business, Labor, and Economic Affairs.

HB 357, introduced by Berry, Hunter, Glaser, referred to Business, Labor, and Economic Affairs.

HB 362, introduced by Henry, referred to Judiciary.

HB 375, introduced by Phillips, referred to Natural Resources.

HB 386, introduced by O'Hara, Squires, McChesney, Reinhart, Steinbeisser, referred to Business, Labor, and Economic Affairs.

HB 390, introduced by Reinhart, Getz, Howard, French, Hamilton, Taylor, Wilmer, Warburton, More, Kottel, Pomnichowski, Ebinger, Arntzen, Wilson, Furey, referred to Business, Labor, and Economic Affairs.

HB 402, introduced by French, referred to Natural Resources.

HB 404, introduced by Reinhart, Dick Barrett, Belcourt, A. Noonan, Ebinger, Hands, referred to Business, Labor, and Economic Affairs.

HB 407, introduced by MacDonald, Hands, Furey, Sands, Reinhart, Steenson, Campbell, McClafferty, Malek, Pease-Lopez, Hiner, McAlpin, Boland, Henry, Calf Boss Ribs, Pomnichowski, Grinde, Kottel, Cohenour, Driscoll, French, Caferro, Dickenson, Wilmer, referred to Judiciary.

HB 409, introduced by Pomnichowski, Hands, French, Henry, McAlpin, Becker, referred to Public Health, Welfare and Safety.

HB 418, introduced by Butcher, referred to Agriculture, Livestock and Irrigation.

HB 420, introduced by Reinhart, Erickson, Gallus, Moss, Kaufmann, Laslovich, Pomnichowski, Sesso, Fleming, Ebinger, Hollenbaugh, Wiseman, Malek, Grinde, Furey, Boland, Becker, Cohenour, Driscoll, Blewett, Calf Boss Ribs, Sands, Steenson, referred to Local Government.

HB 431, introduced by Blewett, Butcher, Roberts, referred to Judiciary.

HB 432, introduced by Mehlhoff, Cohenour, referred to Education and Cultural Resources.

HB 443, introduced by Menahan, Phillips, referred to Fish and Game.

HB 445, introduced by Hands, referred to Agriculture, Livestock and Irrigation.

HB 451, introduced by Ebinger, Hawk, Taylor, Hamilton, Pomnichowski, Reinhart, Menahan, referred to Business, Labor, and Economic Affairs.

HB 453, introduced by P. Noonan, Villa, Sesso, Pomnichowski, Hollenbaugh, Reinhart, French, McClafferty, Steenson, MacDonald, Pease-Lopez, Grinde, Calf Boss Ribs, Boland, Augare, McAlpin, Furey, Cohenour, Becker, referred to Public Health, Welfare and Safety.

HB 466, introduced by P. Beck, Berry, B. Beck, Van Dyk, Ankney, referred to Local Government.

HB 475, introduced by Phillips (by request of the Secretary of State), referred to State Administration.

HB 477, introduced by Menahan, referred to Judiciary.

HB 483, introduced by Jones, Keane, Black, Augare, Belcourt, Mehlhoff, Ankney, Villa, referred to Energy and Telecommunications.

HB 486, introduced by MacLaren, Reinhart, Laible, Gallus, Zinke, Hawks, referred to Local Government.

HB 488, introduced by Jones, referred to Education and Cultural Resources.

HB 490, introduced by Van Dyk, referred to Judiciary.

HB 495, introduced by Arntzen, referred to Local Government.

HB 504, introduced by Reinhart, McChesney, Wiseman, French, O'Hara, K. Peterson, Furey, Hamilton, Augare, Sands, Kottel, McClafferty, McGillvray, referred to Judiciary.

HB 509, introduced by Ingraham, referred to State Administration.

HB 513, introduced by Cohenour, Phillips, Hawks, Wilmer, referred to Education and Cultural Resources.

HB 515, introduced by McAlpin, referred to Judiciary.

HB 517, introduced by Hollenbaugh, referred to Judiciary.

HB 522, introduced by Reinhart, referred to Local Government.

HB 529, introduced by Jones, referred to Energy and Telecommunications.

SENATE JOURNAL
FORTY-SIXTH LEGISLATIVE DAY - MARCH 2, 2009

HB 530, introduced by Arntzen, referred to Business, Labor, and Economic Affairs.
HB 531, introduced by Nooney, referred to Highways and Transportation.
HB 533, introduced by Taylor, Nooney, referred to Judiciary.
HB 534, introduced by Campbell, Windy Boy, Jent, Shockley, Laslovich, Stewart-Peregoy, Hamlett, Wilmer, French, McChesney, Hamilton, Sands, referred to Judiciary.
HB 536, introduced by Malek, Menahan, Hamilton, McAlpin, referred to Judiciary.
HB 542, introduced by Vance, referred to Business, Labor, and Economic Affairs.
HB 544, introduced by Vincent, Wilson, referred to Business, Labor, and Economic Affairs.
HB 545, introduced by Vincent, Wilmer, referred to Local Government.
HB 546, introduced by Pomnichowski, referred to Local Government.
HB 557, introduced by Belcourt, referred to Natural Resources.
HB 563, introduced by Kottel, referred to Local Government.
HB 567, introduced by Sonju, referred to Business, Labor, and Economic Affairs.
HB 572, introduced by Pomnichowski, Gillan, Branae, Moss, Hawks, Roundstone, Furey, Sands, Wilmer, Wiseman, Getz, Fleming, McAlpin, Nooney, Belcourt, referred to Business, Labor, and Economic Affairs.
HB 574, introduced by Vincent, referred to Judiciary.
HB 584, introduced by A. Noonan, referred to Energy and Telecommunications.
HB 591, introduced by Pease-Lopez, referred to Judiciary.
HB 592, introduced by Randall, Hinkle, Getz, Bean, Boniek, Taylor, referred to Agriculture, Livestock and Irrigation.
HB 593, introduced by Villa, Gallus, Laslovich, Keane, Hiner, Sesso, A. Noonan, McClafferty, P. Noonan, referred to Natural Resources.
HB 602, introduced by Cohenour, referred to State Administration.
HB 608, introduced by Sesso, referred to Local Government.
HB 621, introduced by Wilson (by request of the House Business and Labor Standing Committee), referred to Business, Labor, and Economic Affairs.
HB 622, introduced by Himmelberger, referred to State Administration.
HB 623, introduced by Milburn, referred to Local Government.
HB 626, introduced by Welborn, referred to State Administration.
HB 628, introduced by Stoker (by request of the House Judiciary Standing Committee), referred to Judiciary.

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 14, introduced by Warburton, Hinkle, T. Brown, Curtiss, Smith, Regier, Randall, Berry, Stahl, Butcher, K. Peterson, Taylor, McNutt, More, McGillvray, MacLaren, Nooney, O'Hara, Belcourt, Hoven, Roundstone, Bean, Kerns, Sonju, Roberts, D. Brown, Hollandsworth, Boniek, Vance, Washburn, Reichner, referred to Judiciary.
HJR 15, introduced by Milburn, referred to Fish and Game.
HJR 22, introduced by O'Hara, Williams, Hamlett, M. Tropila, Kaufmann, Wanzenried, Schmidt, Laslovich, Lewis, Keane, Branae, Hansen, McGee, R. Brown, J. Peterson, Brueggeman, Windy Boy, Murphy, Zinke, Nooney, Ebinger, Campbell, Cohenour, French, Mehlhoff, Warburton, Ankney, Grinde, Jones, Boland, Miller, Getz, Himmelberger, Van Dyk, Bean, Augare, K. Peterson, T. Brown, Squires, Erickson, Gallus, Stewart-Peregoy, Larsen, Hawks, Cooney, Moss, Sands, Hollandsworth, Malek, Blewett, Kottel, Roberts, Belcourt, Smith, referred to State Administration.
HJR 23, introduced by Augare, Juneau, Calf Boss Ribs, Pease-Lopez, Windy Boy, Campbell, Belcourt, Roundstone, MacDonald, Stewart-Peregoy, referred to State Administration.
HJR 25, introduced by Warburton, O'Hara, French, referred to Public Health, Welfare and Safety.
HJR 27, introduced by Wilmer, Juneau, Hands, Grinde, Calf Boss Ribs, Belcourt, McAlpin, Phillips, Campbell, Augare, Malek, Roundstone, Steenson, referred to Education and Cultural Resources.
HJR 29, introduced by Becker, referred to Public Health, Welfare and Safety.

SENATE JOURNAL
FORTY-SIXTH LEGISLATIVE DAY - MARCH 2, 2009

MOTIONS

Senator Balyeat moved that the Senate reconsider the third-reading action on **SB 484** for the purpose of re-referring **SB 484** to Finance and Claims for amendment.

Senator Tutvedt present.

Senate at ease.

President Story ruled Senator Balyeat's motion to reconsider was in order.

Sen. J. Tropila made a substitute motion for a Rules committee meeting. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laslovich, Lewis, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 19

Nays: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Tutvedt, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: Brenden, Larsen, Moss, Shockley, Squires, Stewart-Peregoy, Windy Boy, Zinke.

Total 8

Senator Jent moved to appeal President Story's ruling to allow the reconsider motion.

Senate at ease.

Senator Jent clarified that the motion would be whether to sustain the ruling of the chair. Therefore, a yes vote would be in favor of the ruling and a no vote would be in opposition to President Story's ruling.

The motion to uphold President Story's ruling carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 24

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laslovich, Schmidt, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 18

Absent or not voting: None.

Total 0

Excused: Brenden, Larsen, Moss, Shockley, Squires, Stewart-Peregoy, Windy Boy, Zinke.

Total 8

SENATE JOURNAL
FORTY-SIXTH LEGISLATIVE DAY - MARCH 2, 2009

Senator Gallus made a substitute motion to adjourn until the Forty-Seventh Legislative Day. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laslovich, Schmidt, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 18

Nays: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: Brenden, Larsen, Moss, Shockley, Squires, Stewart-Peregoy, Windy Boy, Zinke.

Total 8

Senator Balyeat moved to reconsider the reconsideration vote on **SB 484**. Senator Balyeat then withdrew his original reconsideration motion.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, March 3, 2009. Motion carried.

Senate adjourned at 6:08 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
March 3, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brenden, Kaufmann, Squires, Windy Boy, and Zinke, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
HB 126, be concurred in. Report adopted.

3/3/2009

Senator Kaufmann and Senator Zinke present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gallus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 322 - Senator Curtiss moved **SB 322** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Brenden, Squires, Windy Boy.
Total 3

Senator Windy Boy present.

SB 464 - Senator Laslovich moved **SB 464** do pass. Motion carried as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 35

SENATE JOURNAL
FORTY-SEVENTH LEGISLATIVE DAY - MARCH 3, 2009

Nays: Bales, Balyeat, Barkus, R. Brown, Curtiss, Gebhardt, Hinkle, Jackson, Laible, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 13

Absent or not voting: None.

Total 0

Excused: Brenden, Squires.

Total 2

SB 476 - Senator Shockley moved **SB 476** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Barkus, R. Brown, Curtiss, Essmann, Hinkle, Jackson, Larsen, Laslovich, McGee, Tutvedt, Wanzenried.

Total 11

Absent or not voting: None.

Total 0

Excused: Brenden, Squires.

Total 2

SB 488 - Senator Windy Boy moved **SB 488** do pass.

SB 488 - Senator Windy Boy moved **SB 488**, second reading copy, be amended as follows:

1. Page 3, line 13.

Following: "subjects"

Strike: "of"

Insert: "associated with or claimed by the relevant entity regarding"

Amendment adopted as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke.

Total 42

Nays: Balyeat, Barkus, Juneau, McGee, Wanzenried, Mr. President.

Total 6

Absent or not voting: None.

Total 0

SENATE JOURNAL
FORTY-SEVENTH LEGISLATIVE DAY - MARCH 3, 2009

Excused: Brenden, Squires.
Total 2

SB 488 - Senator Windy Boy moved **SB 488**, as amended, do pass. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jent, Keane, Laslovich, Lewis, Moss, Murphy, Perry, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Esp, Gebhardt, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Laible, Larsen, McGee, Peterson, Schmidt, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: Brenden, Squires.
Total 2

SB 488 - Senator J. Peterson moved **SB 488** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Juneau, Laible, McGee, Perry, Peterson, Ripley, Schmidt, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Mr. President.
Total 26

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Shockley, Stewart-Peregoy, J. Tropila, Williams, Windy Boy, Zinke.
Total 22

Absent or not voting: None.
Total 0

Excused: Brenden, Squires.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Gallus moved the Committee of the Whole report be adopted. Report adopted unanimously.

UNFINISHED BUSINESS

Minority Leader Williams and Majority Leader Peterson discussed future floor action.

SPECIAL ORDERS OF THE DAY

Senator R. Brown introduced the Senate Pages for the week of March 2 - 7, 2009.

SENATE JOURNAL
FORTY-SEVENTH LEGISLATIVE DAY - MARCH 3, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, March 4, 2009. Motion carried.

Senate adjourned at 1:44 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
March 4, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan, Jent, and Squires, excused. Quorum present.

BILLS AND JOURNALS:

3/4/2009

Correctly printed: **SB 322, SB 464, SB 476, HB 126.**

Senator Gillan present.

Senator Jent present.

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

3/4/2009

HB 90, be concurred in. Report adopted.

HB 100, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

3/3/2009

HB 207, be concurred in. Report adopted.

HB 208, be concurred in. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

3/4/2009

SB 216, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

3/4/2009

HB 74, be concurred in. Report adopted.

HB 296, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

3/4/2009

HB 121, be concurred in. Report adopted.

HB 122, be concurred in. Report adopted.

HB 205, be concurred in. Report adopted.

HB 242, be concurred in. Report adopted.

HB 287, be amended as follows:

1. Page 1, line 21.

Following: "UTILITY"

Strike: "AND THE PUBLIC SERVICE COMMISSION"

2. Page 1, line 27.

Following: "utility"

Insert: "within a utility's right-of-way or easement"

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2009

3. Page 1, line 29.

Following: line 28

Insert: "(4) Nothing in this section may be construed to expand a utility's right-of-way or easement."

And, as amended, be concurred in. Report adopted.

MOTIONS

Senator J. Peterson moved the Senate recess for caucuses. Motion carried.

Senate in recess.

Roll Call. All members present, except Senator Squires, excused. Quorum present.

Senator Windy Boy moved to reconsider the indefinite postponement vote on **SB 488**. Motion carried.

Senator Windy Boy moved to reconsider the action on second reading on **SB 488**.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Gebhardt, Hansen, Hawks, Juneau, Kaufmann, Wanzenried.

Total 6

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

Senator R. Brown moved to re-refer **HB 71** from Health and Human Services to Finance and Claims. Motion carried.

Senator Esp move to re-refer **SB 433** from Senate Finance and Claims to Senate Local Government.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 35

Nays: Branae, Cooney, Erickson, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried.

Total 14

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2009

MESSAGES FROM THE GOVERNOR

February 26, 2009

The Honorable Robert Story
President, Montana State Senate
Capitol Station
Helena, MT 59620

Dear President Story:

Attached is a list of interim board and commission appointments requiring confirmation by the Montana State Senate. We have supplied the following information for each appointment:

Reference to a statute and a brief description of the statute
Name, address, and phone number(s) for each appointee
Appointee qualifications and term of appointment
Brief biographies

Additional information, including a complete list of gubernatorial appointees, is available online at: <http://boards.mt.gov/>. Meanwhile, please don't hesitate to contact our office if my staff or I can be of assistance to you.

Sincerely yours,

BRIAN SCHWEITZER
Governor

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Black in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 278 - Senator Kaufmann moved **SB 278** do pass. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Essmann, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, J. Tropila, Wanzonried, Williams.
Total 17

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 32

Absent or not voting: None.
Total 0

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2009

Excused: Squires.

Total 1

SB 278 - Senator J. Peterson moved **SB 278** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 31

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, J. Tropila, Wanzenried, Williams.

Total 18

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

Senator McGee assumed the chair.

SB 291 - Senator Black moved **SB 291** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 28

Nays: Balyeat, Branae, Cooney, Curtiss, Erickson, Gallus, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 21

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

Senator Black re-assumed the chair.

SB 327 - Senator Curtiss moved **SB 327** do pass.

SB 327 - Senator McGee moved **SB 327**, second reading copy, be amended as follows:

1. Title, line 8.

Following: "DEATH"

Strike: "OR INJURY"

2. Title, line 9.

Following: "PENALTIES;"

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2009

Insert: "PROVIDING FOR AN ADDITIONAL SENTENCE FOR A PERSON CONVICTED OF ASSAULT OR AGGRAVATED ASSAULT ON A PREGNANT WOMAN;"

Following: "45-5-102"

Strike: " 1 "

Insert: "AND"

Following: "45-5-103,"

Strike: "45-5-201, AND 45-5-202,"

3. Page 1, line 17.

Strike: "[sections 1 through & 6]"

Insert: "45-5-102, 45-5-103, and [section 5]"

4. Page 4, line 3 through line 20.

Strike: section 4 through section 5 in their entirety

Insert: "NEW SECTION. Section 4. Additional sentence for assault or aggravated assault on pregnant woman.

(1) An offender who is convicted of committing the offense of assault, as defined in 45-5-201, against a pregnant woman shall, in addition to the punishment provided for commission of the offense, be sentenced to a term of imprisonment in a state prison of not more than 10 years, except as provided in 46-18-222.

(2) An offender who is convicted of committing the offense of aggravated assault, as defined in 45-5-202, against a pregnant woman shall, in addition to the punishment provided for commission of the offense, be sentenced to a term of imprisonment in a state prison of not more than 20 years, except as provided in 46-18-222.

(3) An additional sentence imposed pursuant to this section must be imposed pursuant to the requirements of 46-1-401 and must run consecutively to the sentence imposed for the offense, except as provided in 46-18-222."

Renumber: subsequent sections

5. Page 4, line 22.

Strike: "[Sections 1 through 8]"

Insert: "Sections 45-5-102, 45-5-103, and [section 4]"

6. Page 5, line 2.

Strike: "[sections 1 through 8]"

Insert: "45-5-102, 45-5-103, or [section 4]"

7. Page 5, line 14.

Strike: "[SECTION 1] IS"

Insert: "[Sections 1 and 4 through 6] are"

8. Page 5, line 16.

Strike: "[SECTION 1]"

Insert: "[sections 1 and 4 through 6]"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 39

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2009

Nays: Erickson, Gillan, Juneau, Kaufmann, Larsen, Moss, Schmidt, M. Tropila, Wanzenried, Williams.
Total 10

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 327 - Senator Curtiss moved **SB 327**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hawks, Juneau, Kaufmann, Larsen, Moss, Schmidt, M. Tropila, Wanzenried, Williams.
Total 14

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 379 - Senator Perry moved **SB 379** do pass. Motion **failed** as follows:

Yeas: Barkus, Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Zinke, Mr. President.
Total 20

Nays: Bales, Balyeat, Branae, R. Brown, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 29

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 379 - Senator Williams moved **SB 379** be **indefinitely postponed**. Motion carried as follows:

Yeas: Branae, R. Brown, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Peterson, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 30

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Curtiss, Essmann, Hinkle, Jackson, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke.
Total 19

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Black moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Bales **SB 291** re-referred to Finance and Claims. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 322 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 464 passed as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, Curtiss, Gebhardt, Hinkle, Jackson, Keane, Laible, Perry, Tutvedt.

SENATE JOURNAL
FORTY-EIGHTH LEGISLATIVE DAY - MARCH 4, 2009

Total 13

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 476 passed as follows:

Yeas: Bales, Balyeat, Barrett, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.

Total 39

Nays: Barkus, Black, R. Brown, Cooney, Gebhardt, Hinkle, Jackson, Laslovich, Tutvedt, Wanzenried.

Total 10

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, March 5, 2009. Motion carried.

Senate adjourned at 2:52 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FORTY-NINTH LEGISLATIVE DAY**

Helena, Montana
March 5, 2009

Senate Chambers
State Capitol

Children from Rocky Mountain Preschool in Helena recited the Preamble to the Constitution and the ABCs both forward and backward.

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Jent, Squires, and Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

3/5/2009

Correctly printed: **SB 216, SB 291, HB 74, HB 90, HB 100, HB 121, HB 122, HB 205, HB 207, HB 208, HB 242, HB 296.**

Correctly engrossed: **SB 327, HB 287.**

Correctly enrolled: **SB 2, SB 29, SB 43, SB 125.**

Examined by the sponsor and found to be correct: **SB 2, SB 29, SB 43, SB 125.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

3/5/2009

HB 76, be concurred in. Report adopted.

HB 138, be concurred in. Report adopted.

HB 159, be concurred in. Report adopted.

HB 160, be concurred in. Report adopted.

HB 171, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/4/2009

HB 61, be concurred in. Report adopted.

HB 181, be concurred in. Report adopted.

HB 273, be concurred in. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

3/4/2009

HB 44, be concurred in. Report adopted.

HB 140, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

3/5/2009

HB 151, be concurred in. Report adopted.

HJR 17, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

3/5/2009

SB 377, be amended as follows:

1. Page 7, line 2 through line 3.

Strike: "is exempt" on line 2 through "alien" on line 3

Insert: "meets the requirements for good faith compliance contained in 8 U.S.C. 1324a(b)(6)"

SENATE JOURNAL
FORTY-NINTH LEGISLATIVE DAY - MARCH 5, 2009

2. Page 9, line 22 through line 23.

Strike: "is exempt" on line 22 through "aliens" on line 23

Insert: "meets the requirements for good faith compliance contained in 8 U.S.C. 1324a(b)(6)"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate: 3/4/2009

SB 2, introduced by Cooney

SB 29, introduced by Wanzenried

SB 43, introduced by Kaufmann

SB 125, introduced by Shockley

Senate amendments to House joint resolution concurred in: 3/4/2009

HJR 8, introduced by Kasten

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/4/2009

SB 48, introduced by Essmann

MOTIONS

Majority Leader Peterson moved to reconsider the Committee of the Whole Report from March 4, 2009.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

Majority Leader Peterson moved to reconsider the vote to indefinitely postpone **SB 379** on March 4, 2009.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

SENATE JOURNAL
FORTY-NINTH LEGISLATIVE DAY - MARCH 5, 2009

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

Majority Leader Peterson moved to reconsider the vote on second reading for **SB 379**.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

Majority Leader Peterson moved to re-refer **SB 379** to Senate Judiciary.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

Majority Leader Peterson moved to adopt the Committee report from March 4, 2009.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

SENATE JOURNAL
FORTY-NINTH LEGISLATIVE DAY - MARCH 5, 2009

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

On behalf of the Committee on Committees, Senator Esp moved that the following Senators be appointed to EQC: Senator Shockley, Senator Ripley, Senator Tutvedt, Senator Wanzenried, Senator Keane, and M. Tropila. Motion carried.

On behalf of the Committee on Committees, Senator Esp moved that the following Senators be appointed to the Capitol Complex Advisory Council: Senator Lewis and Senator Moss. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 8, introduced by Shockley (by request of Senate State Administration Standing Committee), referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hamlett in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 425 - Senator Bales moved **SB 425** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Curtiss, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Zinke.

Total 28

Nays: Branae, R. Brown, Brueggeman, Cooney, Erickson, Esp, Gallus, Gillan, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Wanzenried, Williams, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

SENATE JOURNAL
FORTY-NINTH LEGISLATIVE DAY - MARCH 5, 2009

SB 497 - Senator Shockley moved **SB 497** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 29

Nays: Branae, Cooney, Erickson, Gallus, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 18

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

SJR 28 - Senator J. Peterson moved **SJR 28** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 46

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

SJR 29 - Senator Moss moved **SJR 29** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 43

Nays: Brenden, Esp, Gebhardt, Jackson.

Total 4

Absent or not voting: None.

Total 0

Excused: Jent, Squires, Windy Boy.

Total 3

SENATE JOURNAL
FORTY-NINTH LEGISLATIVE DAY - MARCH 5, 2009

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Hamlett moved the Committee of the Whole report be adopted. Report adopted unanimously.

UNFINISHED BUSINESS

Senator Brenden directed the Senators to a list of legislators to be remembered in a memorial service to be held April 5, 2009, and asked that he be provided with any additional names of people to be remembered.

SPECIAL ORDERS OF THE DAY

Majority Leader Peterson stated the Governor's prayer breakfast would be held on Saturday at 8:30 a.m at Carroll College.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, March 6, 2009. Motion carried.

Senate adjourned at 2:10 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTIETH LEGISLATIVE DAY**

Helena, Montana
March 6, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Squires, Senator Gallus, excused. Quorum present.

Senator Gallus present.

BILLS AND JOURNALS:

3/6/2009

Correctly printed: **SB 425, SB 497, SJR 28, SJR 29, HB 44, HB 61, HB 76, HB 138, HB 140, HB 151, HB 159, HB 160, HB 171, HB 181, HB 273, HJR 17.**

Correctly engrossed: **SB 377.**

Correctly enrolled: **SB 24, SB 116, SB 181, SJR 13.**

Signed by the Speaker at 12:00 p.m., March 6, 2009: **SB 2, SB 29, SB 43, SB 125.**

Examined by the sponsor and found to be correct: **SB 24, SB 116, SB 181, SJR 13.**

Signed by the President at 10:20 a.m., March 6, 2009: **SB 2, SB 29, SB 43, SB 125.**

Signed by the Secretary of the Senate at 2:45 p.m., March 5, 2009: **SB 2, SB 29, SB 43, SB 125.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

3/5/2009

HB 168, be concurred in. Report adopted.

HB 247, be concurred in. Report adopted.

HB 368, be concurred in. Report adopted.

FISH AND GAME (Barkus, Chairman):

3/6/2009

HB 172, be amended as follows:

1. Page 1, line 28.

Strike: "MUST"

2. Page 1, line 29.

Following: "(A)"

Insert: "must"

3. Page 1, line 30.

Following: "(B)"

Insert: "must"

4. Page 2, line 1.

Following: "(C)"

Strike: "NOT"

Insert: "may only"

Strike: "WHILE" through "ACCOMPANYING"

Insert: "a game animal that may be taken with the license of"

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 6, 2009

5. Page 2, line 2 through line 3.

Strike: "AND MAY" on line 2 through "DISABILITY" on line 3

6. Page 2, line 4.

Following: "(D)"

Insert: "must"

And, as amended, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

3/5/2009

HB 120, be concurred in. Report adopted.

HB 125, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

3/6/2009

SB 462, introduced bill, be amended as follows:

1. Page 1, line 17.

Following: "contract"

Strike: "takes, receives, or"

2. Page 2, line 2.

Following: "contract"

Strike: "takes, receives, or"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/5/2009

SB 24, introduced by Williams

SB 116, introduced by Keane

SB 181, introduced by Esp

Senate joint resolution concurred in and returned to the Senate:

3/5/2009

SJR 13, introduced by Zinke

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/5/2009

SB 74, introduced by Laible

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 502, introduced by Keane, Mendenhall, Gallus, Klock, Gebhardt, Welborn, McClafferty, Gillan, D. Brown, P. Noonan, referred to Natural Resources.

Senator J. Peterson moved the Senate recess for caucuses. Motion carried.

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 6, 2009

Senate in recess.

Senate reconvened at 1:19 p.m.

Roll Call. All members present, except Senator Squires, Wanzenried, excused. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hinkle in the chair.

Senator Wanzenried present.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 216 - Senator Laslovich moved **SB 216** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Erickson, Juneau, Kaufmann, Shockley, Wanzenried.

Total 6

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 488 - Senator Windy Boy moved **SB 488** do pass.

SB 488 - Senator Windy Boy moved **SB 488**, second reading copy, be amended as follows:

1. Page 3, line 13.

Following: "subjects"

Strike: "of"

Insert: "associated with or claimed by the relevant entity regarding"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 40

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 6, 2009

Nays: T. Brown, Hansen, Hawks, Hinkle, Juneau, Peterson, Schmidt, M. Tropila, Wanzenried.
Total 9

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 488 - Senator Windy Boy moved **SB 488**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brueggeman, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Windy Boy, Zinke, Mr. President.
Total 27

Nays: Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Esp, Gillan, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Larsen, Moss, Peterson, Schmidt, M. Tropila, Tutvedt, Wanzenried, Williams.
Total 22

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Gillan excused.

HB 74 - Senator Balyeat moved **HB 74** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Erickson, Juneau, Kaufmann, Moss, Stewart-Peregoy, J. Tropila, Williams.
Total 7

Absent or not voting: None.
Total 0

Excused: Gillan, Squires.
Total 2

HB 90 - Senator T. Brown moved **HB 90** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 6, 2009

Total 43

Nays: Erickson, Esp, Gallus, Tutvedt, Mr. President.

Total 5

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 100 - Senator Tutvedt moved **HB 100** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

HB 126 - Senator Keane moved **HB 126** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gillan, Squires.

Total 2

Senator Gillan present.

HB 207 - Senator Gebhardt moved **HB 207** be concurred in. Motion carried as follows:

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 6, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Branae, Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.
Total 13

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 208 - Senator Esp moved **HB 208** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 34

Nays: Branae, Cooney, Erickson, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, M. Tropila, Wanzenried, Williams.
Total 15

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 296 - Senator J. Tropila moved **HB 296** be concurred in.

Senator J. Tropila made a substitute motion that **HB 296** be passed for the day. Without objection, motion carried.

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Hinkle moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 327 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 34

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 6, 2009

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams.

Total 16

Paired: Barkus, Aye; Squires, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 425 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Curtiss, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke.

Total 30

Nays: Balyeat, R. Brown, Brueggeman, Cooney, Erickson, Esp, Gallus, Gillan, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Wanzenried, Williams, Mr. President.

Total 20

Paired: Barkus, Aye; Squires, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 497 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 33

Nays: Branae, Cooney, Erickson, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 17

Paired: Barkus, Aye; Squires, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FIFTIETH LEGISLATIVE DAY - MARCH 6, 2009

SJR 28 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SJR 29 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Brenden, Esp, Gallus, Gebhardt, Jackson.

Total 5

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SPECIAL ORDERS OF THE DAY

Senator R. Brown introduced that Pages and thanked them for their work during the week of March 1-7, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 10:30 a.m., Saturday, March 7, 2009. Motion carried.

Senate adjourned at 3:00 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-FIRST LEGISLATIVE DAY**

Helena, Montana
March 7, 2009

Senate Chambers
State Capitol

Senate convened at 10:51 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Laible, Perry, and Squires, excused. Quorum present.

Senator Perry present.

Senator Laible present.

BILLS AND JOURNALS:

3/7/2009

Correctly printed: **SB 216, SB 502, HB 74, HB 90, HB 100, HB 120, HB 125, HB 126, HB 168, HB 207, HB 208, HB 247, HB 368.**

Correctly engrossed: **SB 462, SB 488, HB 172.**

Delivered to the Governor for approval at 3:55 p.m., March 6, 2009: **SB 2, SB 29, SB 43, SB 125.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
HB 80, be amended as follows:

3/6/2009

1. Title, page 1, line 12.

Following: "DUTIES;"

Insert: "CREATING A TEMPORARY PRACTICE PERMIT IN ADDICTION COUNSELING;"

2. Page 3, line 30.

Strike: "Montana"

Following: "license"

Insert: "issued under Title 37, chapter 15"

3. Page 4, line 4.

Following: "~~whom~~"

Insert: "who is either an otolaryngologist or a person"

4. Page 9, line 28.

Following: "duties"

Insert: "in the performance of licensed professional duties"

5. Page 12, line 3.

Following: "duties"

Insert: "in the performance of licensed professional duties"

6. Page 28, line 15.

Strike: ", INTERN, OR RESIDENT"

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

7. Page 28, line 28.

Following: "fees"

Insert: "--temporary practice permit"

8. Page 29, line 8.

Strike: "an internship"

Insert: "a program"

9. Page 29, line 12 through line 13.

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

10. Page 29, line 14.

Strike: "An"

Insert: "Except as provided in subsections (5)(d) and (6), an"

11. Page 29, line 15.

Strike: "or internship and the examination"

12. Page 29, line 16.

Strike: "or internship"

13. Page 29.

Following: line 27

Insert: "(d) A student is not required to obtain a temporary practice permit.

(6) The provisions of subsection (5) do not apply until the department has adopted rules implementing this section. The rules must provide for a waiver of the provisions of subsection (5) for a person who is engaged in a supervised work experience prior to the adoption of the rules."

14. Page 40, line 8 through line 10.

Strike: section 52 in its entirety

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 94, be concurred in. Report adopted.

HB 101, be concurred in. Report adopted.

HB 114, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

3/6/2009

HB 288, be amended as follows:

1. Page 1, line 11.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

2. Page 1, line 17 through line 20.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

And, as amended, be concurred in. Report adopted.

HB 293, be concurred in. Report adopted.

HB 298, be concurred in. Report adopted.

HB 308, be amended as follows:

1. Page 5, line 10 through line 11.

Following: "may" on line 10

Strike: remainder of line 10 through "court," on line 11

2. Page 5, line 11.

Following: "permit"

Strike: "up to \$100 of the amount of the"

Insert: "a part or all of a"

3. Page 5, line 12 through line 13.

Following: "food" on line 12

Strike: remainder of line 12 through "individuals" on line 13

Insert: "to a food bank program"

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/6/2009

HB 245, be concurred in. Report adopted.

HB 426, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

3/6/2009

HB 70, be concurred in. Report adopted.

HJR 29, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

3/6/2009

HB 23, be amended as follows:

1. Title, line 7.

Strike: "IMMEDIATE EFFECTIVE"

Insert: "APPLICABILITY"

2. Page 2, line 6.

Strike: section 3 in its entirety

Insert: "NEW SECTION. **Section 3. Applicability.** [This act] applies to legislatures that convene after December 31, 2011."

And, as amended, be concurred in. Report adopted.

HB 37, be concurred in. Report adopted.

HB 155, be concurred in. Report adopted.

HJR 22, be concurred in. Report adopted.

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/6/2009

SB 18, introduced by Wanzenried
SB 23, introduced by Wanzenried
SB 42, introduced by Laslovich
SB 53, introduced by Lewis
SB 117, introduced by Wanzenried
SB 130, introduced by Hamlett
SB 152, introduced by Brueggeman

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/6/2009

SB 88, introduced by M. Tropila

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 216 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Brueggeman, Erickson, Juneau, Kaufmann, Shockley.
Total 6

Paired: Squires, Aye; Shockley, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 74 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Erickson, Juneau, Kaufmann, Moss, Stewart-Peregoy, J. Tropila, Williams.
Total 7

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 90 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 45

Nays: Erickson, Esp, Tutvedt, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 100 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 126 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 207 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Branae, Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Moss, Squires, M. Tropila, Wanzenried, Williams.

Total 12

Paired: R. Brown, Aye; Squires, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 208 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 34

Nays: Branae, Cooney, Erickson, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams.

Total 16

Paired: R. Brown, Aye; Squires, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Shockley in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 296 - Senator J. Tropila moved **HB 296** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 45

Nays: Balyeat, Esp, Gebhardt, Mr. President.

Total 4

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 76 - Senator Keane moved **HB 76** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 121 - Senator McGee moved **HB 121** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

Senator McGee assumed the chair.

HB 122 - Senator Shockley moved **HB 122** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

Senator Shockley re-assumed the chair.

HB 138 - Senator Zinke moved **HB 138** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

HB 159 - Senator J. Tropila moved **HB 159** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 160 - Senator R. Brown moved **HB 160** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 171 - Senator R. Brown moved **HB 171** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Kaufmann.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

Total 1

HB 205 - Senator Jent moved **HB 205** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 242 - Senator Perry moved **HB 242** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 287 - Senator Murphy moved **HB 287** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Hinkle, Jackson, Moss.

Total 3

Absent or not voting: None.

Total 0

SENATE JOURNAL
FIFTY-FIRST LEGISLATIVE DAY - MARCH 7, 2009

Excused: Squires.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Shockley moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, March 9, 2009. Motion carried.

Senate adjourned at 11:44 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-SECOND LEGISLATIVE DAY**

Helena, Montana
March 9, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan, Larsen, and Squires, excused. Quorum present.

Senator Gillan present.

SPECIAL ORDERS OF THE DAY

Lori Young, a singer/songwriter from Havre, performed two songs.

BILLS AND JOURNALS:

3/9/2009

Correctly printed: **HB 37, HB 70, HB 76, HB 94, HB 101, HB 114, HB 121, HB 122, HB 138, HB 155, HB 159, HB 160, HB 171, HB 205, HB 242, HB 245, HB 287, HB 293, HB 296, HB 298, HB 426, HJR 22, HJR 29.**

Correctly engrossed: **HB 23, HB 80, HB 288, HB 308.**

Correctly enrolled: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

Signed by the President at 10:10 a.m., March 9, 2009: **SB 24, SB 116, SB 181, SJR 13.**

Signed by the Secretary of the Senate at 10:00 a.m., March 7, 2009: **SB 24, SB 116, SB 181, SJR 13.**

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

3/6/2009

HB 38, be concurred in. Report adopted.

HB 46, be concurred in. Report adopted.

HB 57, be concurred in. Report adopted.

HJR 6, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

3/9/2009

HB 149, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/9/2009

HB 244, be amended as follows:

1. Page 1, line 13.

Strike: "15"

Insert: "30 consecutive"

2. Page 1, line 17.

Strike: "15"

Insert: "30 consecutive"

And, as amended, be concurred in. Report adopted.

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

3/9/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, March 7, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Nathaniel Wagner, Kalispell
	Ann Koenig, Kalispell
	Mary Kaercher, Havre
	Taylor Albright, Kalispell
	Sierra Chambers, Clancy
	Karlyanne Ryan, Plains
	Charlene Healy, Dodson

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 9, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Lisa Laslovich, Anaconda
	McCall Flynn, Anaconda
	Marion Min, Ryegate
	Sarah Kirchner, Kalispell
	Nicole Veltkamp, Stevensville
	Ronald "Tres" Storey III, Yellowtail
	Taylor Simkins, Missoula

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/7/2009

SB 35, introduced by Jent
SB 78, introduced by Brenden
SB 90, introduced by Jackson
SB 98, introduced by Keane
SB 140, introduced by Perry
SB 215, introduced by Steinbeisser

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/7/2009

SB 40, introduced by Juneau

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator T. Brown in the chair.

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 462 - Senator Steinbeisser moved **SB 462** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Larsen, Squires.

Total 2

HB 61 - Senator Gallus moved **HB 61** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Hinkle, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: Larsen, Squires.

Total 2

HB 120 - Senator Keane moved **HB 120** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

Total 0

Excused: Larsen, Squires.

Total 2

HB 125 - Senator Keane moved **HB 125** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Larsen, Squires.

Total 2

HB 140 - Senator Gebhardt moved consideration of **HB 140** be passed for the day. Without objection, motion carried.

HB 168 - Senator Hansen moved **HB 168** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Shockley.

Total 2

Absent or not voting: None.

Total 0

Excused: Larsen, Squires.

Total 2

HB 172 - Senator Schmidt moved **HB 172** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB - Senator McGee assumed the chair.

HB 181 - Senator T. Brown moved **HB 181** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB 368 - Senator T. Brown moved **HB 368** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Cooney.
Total 1

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman T. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 488 failed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brueggeman, Curtiss, Essmann, Gebhardt, Hamlett, Hinkle, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Windy Boy, Zinke, Mr. President.
Total 25

Nays: Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Erickson, Esp, Gallus, Gillan, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Larsen, Moss, Peterson, Schmidt, Squires, M. Tropila, Tutvedt, Wanzenried, Williams.
Total 25

Paired: Essmann, Perry, Aye; Larsen, Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 76 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB 121 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB 122 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB 138 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB 159 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr.

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB 160 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB 171 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Black, Erickson, Esp, Essmann, Kaufmann.
Total 5

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

HB 205 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley,

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Larsen, Squires.

Total 2

HB 242 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Larsen, Squires.

Total 2

HB 287 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, Hinkle, Jackson.

Total 3

Absent or not voting: None.

Total 0

Excused: Larsen, Squires.

Total 2

HB 296 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp,

SENATE JOURNAL
FIFTY-SECOND LEGISLATIVE DAY - MARCH 9, 2009

Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Brenden, Gebhardt, Steinbeisser.
Total 4

Absent or not voting: None.
Total 0

Excused: Larsen, Squires.
Total 2

SPECIAL ORDERS OF THE DAY

Senator Barkus introduced the pages for the week of March 9-14, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, March 10, 2009. Motion carried.

Senate adjourned at 2:01 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-THIRD LEGISLATIVE DAY**

Helena, Montana
March 10, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gallus, Schmidt, and Squires, excused. Quorum present.

Senator Schmidt present.

BILLS AND JOURNALS:

3/10/2009

Correctly printed: **SB 462, HB 38, HB 46, HB 57, HB 61, HB 120, HB 125, HB 149, HB 168, HB 172, HB 181, HB 368, HJR 6.**

Correctly engrossed: **HB 244.**

Correctly enrolled: **SB 72, SB 157, SB 161, SB 219, SB 252.**

Signed by the Secretary of the Senate at 4:00 p.m., March 9, 2009: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

Signed by the President at 10:40 a.m., March 10, 2009: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

Signed by the Speaker at 2:15 p.m., March 9, 2009: **SB 24, SB 116, SB 181, SJR 13.**

Examined by the sponsor and found to be correct: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, and thirty-fifth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
HB 136, be concurred in. Report adopted.

3/10/2009

NATURAL RESOURCES (Gebhardt, Chairman):
HB 39, be amended as follows:

3/10/2009

1. Title, page 1, line 11.
Strike: the first "AND"

2. Title, page 1, line 12.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 5.
Following: line 2
Insert: "NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval."

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

And, as amended, be concurred in. Report adopted.

HB 41, be amended as follows:

1. Title, line 6.

Strike: "AND"

2. Title, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE"

3. Page 3, line 24.

Following: "shall"

Strike: "obtain"

Insert: "apply for"

4. Page 6.

Following: line 1

Insert: "COORDINATION SECTION. Section 4. Coordination instruction. If both Senate Bill No. 94 and [this act] are passed and approved, then the amendments to 85-2-362 in both Senate Bill No. 94 and [this act] are void and 85-2-362 must read as follows:

"85-2-362. Aquifer recharge or mitigation plans in closed basins -- minimum requirements.(1) An applicant whose hydrogeologic assessment conducted pursuant to 85-2-361 predicts that there will be a net depletion of surface water shall offset the net depletion that results in the adverse effect through a mitigation plan or an aquifer recharge plan. A mitigation plan or an aquifer recharge plan, or both, must provide evidence of how the plan will offset the net depletion of surface water from an appropriation of water that results in an adverse effect, including, at a minimum, evidence:

- ~~(2) A mitigation plan must include:~~
- ~~_____ (a) where and how the water in the plan will be put to beneficial use;~~
 - ~~_____ (b) when and where, generally, water reallocated through exchange or substitution will be required;~~
 - ~~_____ (c) the amount of water reallocated through exchange or substitution that is required;~~
 - ~~_____ (d) how the proposed project or beneficial use for which the mitigation plan is required will be operated;~~
 - ~~_____ (e) evidence~~
 - ~~_____ (a) of the amount of water reallocated through exchange or substitution;~~
 - ~~_____ (b) of the general timing and location of the water reallocated through exchange or substitution;~~
 - ~~_____ (c) that the mitigation water will be available;~~
 - ~~_____ (d) of how the mitigation water in the plan will be protected and how it will be measured or accounted for;~~
 - ~~_____ (e) that the appropriate water quality permits have been applied for pursuant to Title 75, chapter 5, as required by 75-5-410 and 85-2-364; and~~
 - ~~_____ (f) that an application for a change in appropriation right, if necessary, has been submitted;~~
 - ~~_____ (f) evidence of water availability; and~~
 - ~~_____ (g) evidence of how the mitigation plan will offset the required amount of net depletion of surface water in a manner that will offset an adverse effect on a prior appropriator.~~
- ~~(3) An aquifer recharge plan must include:~~
- ~~_____ (a) evidence that the appropriate water quality related permits have been granted pursuant to Title 75, chapter 5, and pursuant to 75-5-410 and 85-2-364;~~
 - ~~_____ (b) where and how the water in the plan will be put to beneficial use;~~
 - ~~_____ (c) when and where, generally, water reallocated through exchange or substitution will be required;~~
 - ~~_____ (d) the amount of water reallocated through exchange or substitution that is required;~~
 - ~~_____ (e) how the proposed project or beneficial use for which the aquifer recharge plan is required will be operated;~~
 - ~~_____ (f) evidence that an application for a change in appropriation right, if necessary, has been submitted;~~

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

~~(g)~~(2) In addition to the requirements in subsection (1), an aquifer recharge plan must also include a description of the process by which water will be reintroduced to the aquifer;

~~(h) evidence of water availability; and~~

~~(i) evidence of how the aquifer recharge plan will offset the required amount of net depletion of surface water in a manner that will offset any adverse effect on a prior appropriator.~~

(3) A mitigation plan or aquifer recharge plan may not include the proposed elimination of vegetation for which there is not an associated water right.

(4) A mitigation plan or aquifer recharge plan may not include the use of tributary water collected from land surfaces that have been made impermeable, thereby increasing the runoff but not adding to the existing supply of tributary water. This subsection does not apply to actions that increase the efficiency of existing conveyance structures.

~~(4)~~(5) The department may not require an applicant, through a mitigation plan or an aquifer recharge plan, to provide more water than the quantity needed to offset the adverse effects on a prior appropriator caused by the net depletion.

~~(5)~~(6) An appropriation right that relies on a mitigation plan or aquifer recharge plan to offset net depletion of surface water that results in an adverse effect on a prior appropriator must be issued as a conditional permit that requires that the mitigation plan or aquifer recharge plan must be exercised when the appropriation right is exercised.""

Insert: "COORDINATION SECTION. Section 5. Coordination instruction. If both Senate Bill No. 94 and [this act] are passed and approved, then the amendments to 85-2-364 in both Senate Bill No. 94 and [this act] are void and 85-2-364 must read as follows:

"85-2-364. Department permit coordination -- requirements for aquifer recharge plans. To ensure that the department and the department of environmental quality are coordinating their respective permitting activities:

(1) an applicant for a new appropriation right pursuant to 85-2-360 that involves aquifer recharge or mitigation and requires a discharge permit pursuant to Title 75, chapter 5, shall provide to the department with a copy of a relevant discharge permit if necessary evidence that an application for the discharge permit has been submitted to the department of environmental quality; and

(2) the department may not grant a new appropriation right pursuant to 85-2-360 that involves aquifer recharge or mitigation until the discharge permit, if necessary, has been obtained and presented to the department.""

Insert: "NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 7. Applicability. [This act] applies to applications received by the department of natural resources and conservation on or after [the effective date of this act]."

And, as amended, be concurred in. Report adopted.

HB 75, be concurred in. Report adopted.

HB 139, be concurred in. Report adopted.

HB 153, be concurred in. Report adopted.

HB 278, be concurred in. Report adopted.

HB 285, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

3/10/2009

HB 72, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

3/10/2009

HB 30, be concurred in. Report adopted.

HB 54, be concurred in. Report adopted.

HB 58, be concurred in. Report adopted.

HB 192, be concurred in. Report adopted.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/9/2009

SB 72, introduced by Laslovich

SB 157, introduced by Shockley

SB 161, introduced by Debby Barrett

SB 219, introduced by Squires

SB 252, introduced by Cooney

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 503, introduced by Essmann, Zinke, J. Peterson, Black, Hinkle, McGee, Jackson, Bales, , Gebhardt, De. Barrett, Curtiss, Tutvedt, , Perry, Ripley, Steinbeisser, Brenden, T. Brown, Brueggeman, R. Brown, Barkus, referred to Taxation.

SB 504, introduced by Balyeat, Jackson, Zinke, Steinbeisser, Hinkle, Black, Gebhardt, referred to Taxation.

SB 505, introduced by Bales, McChesney, referred to Finance and Claims.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 9, introduced by Shockley (by request of Senate State Administration Standing Committee), referred to State Administration.

MOTIONS

Senator Perry moved to re-refer **HB 108** from Judiciary to Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 462 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Total 0

Excused: Gallus, Squires.

Total 2

HB 61 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Squires.

Total 2

HB 120 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Squires.

Total 2

HB 125 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Squires.

Total 2

Senator Gallus present.

HB 168 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, Esp, Shockley.

Total 3

Absent or not voting: None.

Total 0

Excused: Gallus, Squires.

Total 2

HB 172 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Erickson, Esp, Kaufmann.

Total 3

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 181 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 368 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Cooney.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Windy Boy in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 140 - Senator Gebhardt moved **HB 140** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Cooney, Erickson, Jent, Juneau, Kaufmann, Moss, M. Tropila.

Total 7

Absent or not voting: None.

Total 0

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Excused: Squires.
Total 1

HB 80 - Senator Barkus moved **HB 80** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 94 - Senator Steinbeisser moved **HB 94** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 151 - Senator Juneau moved **HB 151** be concurred in. Motion carried as follows:

Yeas: Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 39

Nays: Bales, Balyeat, Barkus, Hinkle, Jackson, McGee, Ripley, Shockley, Steinbeisser, Zinke.
Total 10

Absent or not voting: None.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Total 0

Excused: Squires.

Total 1

HB 247 - Senator J. Peterson moved **HB 247** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 273 - Senator Laslovich moved **HB 273** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 45

Nays: Balyeat, Esp, Hinkle, Mr. President.

Total 4

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 293 - Senator Jent moved **HB 293** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 298 - Senator Shockley moved **HB 298** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HJR 17 - Senator R. Brown moved **HJR 17** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 43

Nays: Balyeat, Barkus, Brenden, Esp, Ripley, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Windy Boy moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senate at ease.

SPECIAL ORDERS OF THE DAY

Senator Peterson moved the Senate recess and proceed to the House of Representatives to hear the State of the Tribal Nations address. Upon adjournment of the joint session, the Senate will be adjourned until the hour of 1:00 p.m.,

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Wednesday, March 11, 2009. Motion carried.

After the Senate was introduced in the House chambers, President Story assumed the chair. Senator Peterson moved that the body resolve itself into a joint session for the purpose of receiving the State of the Tribal Nations address from Chairman James Steele, Montana/Wyoming Tribal Leaders Council and Confederated Salish and Kootenai Tribes. Motion carried.

Senator Peterson moved that the President be authorized to appoint a committee of four to notify Chairman Steele that the House and Senate are in joint session and ready to receive the State of the Tribal Nations address. Motion carried.

President Story appointed Senator T. Brown, Senator Juneau, Representative Calf Boss Ribs, and Representative Hendrick, and the committee escorted Chairman Steele into the House chambers.

Bruce Sunchild, Sr., Councilman, Chippewa Cree Tribe, gave the Invocation.

The Chief Cliff Singers performed the Flag Song.

President Story introduced Chairman Steele to the joint session, and the Chairman gave the following speech:

Good afternoon. Thank you House Speaker Bob Bergren. Thank you Senate President Robert Story.

Thank you also to Margaret Campbell, Fort Peck Tribal member and the first Indian House Majority Floor Leader.

Thank you for the opportunity to speak in this distinguished chamber and for the opportunity to speak to the leaders of Montana, who have gathered here for this State of the Tribal Nations address.

I also thank the Montana National Guard that presented the colors. You have served our Nation well in putting yourself in harm's way and you continue to serve through your community service. As United States Senators John McCain and Dan Inouye, themselves both war heroes, have often pointed out, American Indians have a proud tradition of serving in the military in the highest percentage of any ethnic group in the United States. We ask our Creator for Godspeed for all Americans that serve this great country in places far away and pray for their families who also make tremendous sacrifices for the freedoms we have.

Thank you, Bruce Sun Child, for your words of prayer.

I am pleased to introduce the Tribal Government leaders that join me today:

Blackfeet Chairman Willie Sharp
Chippewa Cree Chairman Jake Parker
Crow Chairman Cedric Black Eagle
Fort Belknap President Julia Doney
Fort Peck Chairman A.T. "Rusty" Stafne
Northern Cheyenne President Leroy Spang, and
Little Shell Band of Chippewa Chairman John Sinclair.

Tribal leaders, I am honored to represent you today, as Chairman of the Montana-Wyoming Tribal Leaders Council and as Chairman of the Confederated Salish and Kootenai Tribes.

Honorable Governor Brian Schweitzer and Lieutenant Governor John Bohlinger, thank you. Throughout your administration, you have opened the front doors of the Capitol to the Tribes, and we have walked through those doors many times. We look forward to continuing our government-to-government relationship throughout the next four years.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

I thank the distinguished members of the Senate and House of Representatives and, in particular, the American Indian legislators of Montana:

Representative Shannon Augare, House Majority Whip
Representative Tony Belcourt
Representative, Frosty Calf Boss Ribs
Representative Carolyn Pease-Lopez
Representative David Roundstone
Senator Carol Juneau
Senator Sharon Stewart-Peregoy, and
Senator Jonathan Windy Boy

We look to you for leadership and guidance as the legislative session continues.

I would also like to recognize the statewide elected officials in attendance today:

Superintendent of Public Instruction, Denise Juneau, the first Indian woman to be elected to statewide public office
Attorney General Steve Bullock
Secretary of State Linda McCulloch
State Auditor Monica Lindeen

There are members of the Governor's cabinet present today, as well as representatives from the offices of Senator Baucus, Senator Tester, and Representative Rehberg.

I would especially like to thank and honor Mr. Gilbert Horn, Sr., an Assiniboiné of the of the Fort Belknap Indian Reservation, who, like the more storied Navajos, used the Assiniboiné language with Gerald Red Elk of the Ft. Peck Reservation to create a code our enemies in World War II were never able to break. At one point in the war Gilbert Horn victoriously attacked a Japanese machine gun post and, despite finding his uniform riddled with machine gun bullets, managed to survive unscathed. He was awarded the Congressional Medal of Honor but this humble man felt like he didn't deserve special recognition because he was only doing his job. Thank you, Mr. Gilbert Horn, for your service to the country. Thank you all.

Elected leaders, tribal elders, ladies and gentlemen:

On behalf of the Tribal Nations across the state of Montana, I am honored to present the State of the Tribal Nations address. My name is James Steele, Jr., and I am the Chairman of the Confederated Salish and Kootenai Tribes and the Chairman of the Montana-Wyoming Tribal Leaders Council.

We live in times of tremendous change, politically and economically. We have seen history made in the election of President Barack Obama and his appointments of the most diverse cabinet in the history of the nation.

And we have also lost a great leader. This past month, Crow Tribal Chairman Carl Venne passed away – a tremendous loss for the Crow Nation, Montana, and the country. Carl was a former Chairman of the Montana-Wyoming Tribal Leaders Council and gave this address during the 2007 legislative session. Please let us honor the passing of this great leader, this great man, and my friend, with a moment of silence.

The Charles M. Russell painting that dominates this Chamber serves as a reminder of the historic relationship between the Tribes and those who came west to this great country. Charlie Russell recognized that the coming of Lewis and Clark had a profound impact on the Indian people, as our way of life was changed forever. In 1805, the economies of Native America were strong and thriving. In fact, in his orders to Lewis and Clark, President Jefferson instructed the two

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

captains to take note and report to him on the economic activities of the Tribes, for Jefferson knew they were vibrant. Our families were strong units. We depended on each other for our survival. There was food, clothing, and shelter with a strong religion and value system. An interesting aspect of Thomas Jefferson is that he had studied the governing structure of the six nations that comprise the Iroquois Confederacy, and he was fascinated by the idea that there could be independent tribal governments who had autonomy from one another but who also coalesced for their common good. Historians believe that the relationship between those tribes influenced Jefferson and played a role in the crafting of the Constitution and the establishment of the United States.

The Russell mural depicts an event that took place on September 4, 1805 when Lewis and Clark's journey embarked on Salish territory at Ross Hole. The encounter between them and the Salish tribal people was a monumental event that ultimately led to the success of the expedition. The Salish people graciously provided the explorers with fresh horses, food, and other vital supplies that were needed for their trek across the Bitterroot Mountains to the Pacific Ocean.

Without our assistance at Ross Hole and that of other tribes along the way, who knows what the outcome of the journey would have been. These people came looking for a new life, for opportunity, for the freedom to practice any religion they chose. They came looking for hope and opportunity, and we as Indian people hold that in common with them today. Maybe if Indian people had a strong policy on immigration things might have turned out quite differently!!

Today, we begin another partnership. It is a partnership that must be based on mutual respect and an understanding. We all must benefit if we as a state are to move forward. What is essential, if we as Indian people are going to survive, is that the State of Montana accepts the most basic premise that Indian tribes are sovereign units of government. It should be noted that the Constitution of the United States identifies three units of government and those are federal, state, and Indian tribal governments. We are not racial groups who happen to live on a particular land base and want what other interests groups want. We are the successors in interest to those who signed treaties with the United States that allowed for Montana to be created. The United States does not sign treaties with interest groups; they sign treaties with governments, and our treaties were ratified by the United States Senate. They are binding contractual agreements in which we reserved to ourselves the rights of self-government and when the western states joined the Union, their enabling acts committed them to respecting that authority. There are times when this phenomenon has created jurisdictional problems but to a great extent Montana, particularly in more recent years, has come to understand that our relationship is one of two governments that must be built on mutual respect. I believe that by carrying out this relationship in a mutually respectful fashion, we can better the lives of the people who live on Indian reservations, as well as those who do not. I believe that Indian reservations are good for Montana and can in fact significantly aid Montana in the area of economic development.

At this time it is important that we focus on economic development, job creation, education and health care. These things go hand in hand and our concerns are the same as yours. For too long our people have struggled in economically depressed communities. Our country is in the most severe economic downturn in a generation. But for Indian Country, this is not new, as reservations have long suffered with high levels of unemployment. The question is how can Montana help its tribes develop, and how can those tribes in turn assist Montana to develop its economy? One source of information that I would ask Montana's officials to look at is the study funded by the State & Tribal Economic Development Commission and the University of Montana called the Uncovering Economic Contributions of Montana's American Indian Tribes.

Montana's reservations contribute to the state economy by purchasing goods and services from surrounding communities throughout the state with revenue generated from natural resource-based jobs, tribal businesses, federal funds that support some tribal operations and revenue from tribal assets.

Cooperative agreements between the Tribes and State will improve the economic conditions of the reservations and would benefit the state of Montana.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

State and tribal leaders, consider these areas for cooperative agreements:

1. Partnerships focused on bringing a business development approach to tribal communities through technical assistance and strategic partnerships.
2. Improve management skills and the ability to land job-creating grants by using tribal colleges to train the workforce.
3. Assist Tribes with due diligence on energy development technologies.

These are just a few items to consider in the efforts to improve the health and well-being of our communities. The Salish and Kootenai Tribes are mapping out our future as energy providers. This effort will reach a new stage in 2015 when CSKT purchases Kerr Dam and becomes a supplier of hydroelectric energy. CSKT has also successfully managed a federal power company, Mission Valley Power, for the past 20 years and now serves 14,000 customers.

The great Crow Nation has taken a bold step and signed an agreement with the Australian Energy Company to form the Many Stars Coal-to-Liquids Project. This effort will bring significant opportunities to the Crow people and to all Montanans, through the creation of 4,000 Montana-based jobs, an increased tax base, and will have a vast positive economic impact.

The Gros Ventre and Assiniboine Tribes of the Fort Belknap Reservation have used their Indian Country Economic Development funds for the creation of the Little River Smokehouse. This has brought great pride to the Assiniboine and Gros Ventre people. Thank you for this important program and please continue its funding this session.

The Little Shell Chippewa Tribes continue to receive our support in their endeavors to gain federal recognition. Sen. Jon Tester has also supported the tribes in their 31-year effort for recognition.

The Northern Cheyenne is delicately balancing energy development to create jobs while being environmentally conscientious with their traditional values.

The Assiniboine and Sioux Tribes of the Fort Peck Reservation are proud to report that they were the first to sign a revenue-sharing agreement with the State of Montana to eliminate duplicate taxation of new oil and gas development on the reservation. This creates a competitive business environment on the reservation, leading to more development of tribal oil and gas resources and increased economic opportunities for tribal members.

The Chippewa Cree Tribe is engaging in energy development on and around the Rocky Boy's Reservation that will create more jobs, generate revenue, and provide direct control over development of land and resources. The Tribe has partnered with Native American Resource Partners (NARP) to create a tribally owned energy company for exploring and developing oil and gas resources. The priorities will be on natural gas exploration and development followed by wind energy progress.

The Blackfeet Nation is working to upgrade Pikuni Industries to manufacture materials for Defense Department contracts, and oil drilling efforts have increased on the western side of the Blackfeet Reservation. The Tribe is also in discussion with wind energy producers about several wind projects on the Reservation.

These are just a few examples – from among many – of the efforts tribal governments are making to improve the health and well-being of our peoples.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Even with high rates of unemployment, the seven Indian Reservations of Montana and the state-recognized Little Shell Band of Chippewa, contribute a combined total of \$1 billion annually to the Montana economy. Those numbers may surprise some people, but to those of you who work every day to make your home communities better for your people, these figures come as no surprise.

This is an important time to come together. It's important to remind ourselves and our surrounding communities that together, we are greater than the sum of our parts. An example of that played out when Transportation Director Jim Lynch reach out to Indian Country to coordinate conference calls about economic stimulus dollars and transportation funds. Our Nations are hungry for improvement and the tax status of Indian reservations can be attractive to industry.

In the more immediate term, during this legislative session, you will hear many ideas to help make Montana, even better. The Governor has already signed into law SB 39, sponsored by Senator Carol Juneau, extending the duration of the Reserved Water Rights Compact Commission. I thank Senator Juneau, this legislative body, and the Governor for taking quick action on this bill, which is so vital to the economic future of my people and all Montanans. Senate Bill 39 will allow the CSKT and the State the time to negotiate a water compact that is fair for all who live on the reservation.

While there are many bills worthy of support, I must urge your support in particular for several bills that are vital in Indian Country because of their effect on our economies:

House Bill 161, sponsored by Representative Shannon Augare, ratifies the Blackfeet water compact. This bill represents a vital step in the journey towards fair and just water rights for the Blackfeet Tribe and tribal members, and I thank Representative Augare for sponsoring the bill.

House Bill 135, sponsored by Representative Tony Belcourt, provides funding for the Peoples Creek mitigation account, as part of the Fort Belknap water compact. With this bill, the State begins to fulfill its obligations under the compact to the people of the Fort Belknap Reservation. Thank you, Representative Belcourt (or Landslide Tony as some of us call him), for your sponsorship.

Senate Bill 201, sponsored by Senator Jesse Laslovich, revises the Crow water compact. This important bill allows the Crow Nation to access their interest earnings on funds appropriated as part of the State of Montana's obligation under the compact. With these monies, the Crow will be able to set up their water administration office, as well as complete the ratification process of their water compact in the U.S. Congress. I thank Senator Laslovich for sponsoring this legislation.

House Bill 158, sponsored by Representative Shannon Augare, allowing for direct tribal access to economic development funding. This bill allows tribes to directly access the state's Big Sky Economic Development program funding. Representative Augare understands that the tribes will need to access all the resources they can to help their peoples during these times of economic crisis.

Senate Bill 456, sponsored by Carol Juneau, exempts tribally owned property from state property taxes, just as all governments in Montana are exempt from state property taxes. I am thankful for Senator Juneau's persistence in sponsoring this important bill, which is a simple matter of fairness and an important symbol of respect for the state-tribal government-to-government relationship.

I thank you for supporting the Indian Country Economic Development program, contained in House Bill 2. This program, established as part of the Governor's budget in 2005, has been a critical engine of economic growth in Indian Country, and is now more important than ever given the economic crisis.

SENATE JOURNAL
FIFTY-THIRD LEGISLATIVE DAY - MARCH 10, 2009

Legislators, as you deliberate in making laws and decisions that affect the great State of Montana, let Charlie Russell's painting remind you of your obligation to include Native peoples as your neighbors, partners and friends. Let us move forward together.

Thank you.

Representative Pease-Lopez gave the Benediction.

Senator Peterson moved that the joint session of the 61st Legislature be adjourned. Motion carried.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
March 11, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan, Squires, and Stewart-Peregoy, excused. Quorum present.

The University of Montana Western Polynesian Culture Club, Dillon, gave a dance performance.

Senator Stewart-Peregoy present.

BILLS AND JOURNALS:

3/11/2009

Correctly printed: **SB 503, SB 504, SB 505, SR 9, HB 30, HB 54, HB 58, HB 72, HB 75, HB 80, HB 94, HB 136, HB 139, HB 140, HB 151, HB 153, HB 192, HB 247, HB 273, HB 278, HB 285, HB 293, HB 298, HJR 17.**

Correctly engrossed: **HB 39, HB 41.**

Correctly enrolled: **SB 91, SB 103, SB 256, SJR 2, SJR 14.**

Examined by the sponsor and found to be correct: **SB 72, SB 157, SB 161, SB 252.**

Signed by the Speaker at 12:30 p.m., March 10, 2009: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

Signed by the Secretary of the Senate at 3:40 p.m., March 10, 2009: **SB 72, SB 157, SB 161, SB 252.**

Signed by the President at 9:30 a.m., March 11, 2009: **SB 72, SB 91, SB 157, SB 161, SB 252.**

Delivered to the Governor for approval at 8:20 a.m., March 11, 2009: **SB 18, SB 23, SB 35, SB 42, SB 53, SB 78, SB 90, SB 98, SB 117, SB 130, SB 140, SB 152, SB 215.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

3/11/2009

HB 48, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

3/11/2009

HB 27, be concurred in. Report adopted.

HB 82, be concurred in. Report adopted.

HB 118, be concurred in. Report adopted.

HB 179, be amended as follows:

1. Page 1, line 28.

Following: "produced"

Insert: "only"

And, as amended, be concurred in. Report adopted.

HB 294, be concurred in. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

3/10/2009

SB 100, introduced bill, be amended as follows:

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

1. Title, page 1, line 6.

Following: "PROVIDING"

Strike: "AN" through "DATE"

Insert: "EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES"

2. Page 3, line 23.

Following: "date"

Insert: " -- coordination"

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

Strike: "2009"

Insert: "2011"

3. Page 3, line 24.

Insert: "(2) If House Bill No. 645 is not passed and approved in a form that includes funding for the purposes of [this act], then [this act] is effective July 1, 2009."

4. Page 3, line 25.

Following: "Applicability"

Insert: " -- coordination"

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

5. Page 3, line 26.

Strike: "2009"

Insert: "2011"

6. Page 3, line 27.

Insert: "(2) If House Bill No. 645 is not passed and approved in a form that includes funding for the purposes of [this act], then [this act] applies to severance tax collections from coal produced after June 30, 2009."

7. Page 3, line 28.

Following: "TERMINATION"

Insert: " -- coordination"

Strike: "[THIS ACT]"

Insert: "(1) Except as provided in subsection (2), [this act]"

Strike: "2013"

Insert: "2015"

8. Page 3, line 29.

Insert: "(2) If House Bill No. 645 is not passed and approved in a form that includes funding for the purposes of [this act], then [this act] terminates September 30, 2013."

And, as amended, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

3/11/2009

HB 137, be concurred in. Report adopted.

HB 203, be concurred in. Report adopted.

HB 223, be concurred in. Report adopted.

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

HB 383, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman): 3/10/2009
HB 311, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence: 3/10/2009

HB 290, introduced by Grinde

Senate bills concurred in and returned to the Senate: 3/10/2009

SB 91, introduced by Juneau

SB 103, introduced by Moss

SB 256, introduced by Shockley

Senate joint resolutions concurred in and returned to the Senate: 3/10/2009

SJR 2, introduced by Lewis

SJR 14, introduced by Larsen

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 3/10/2009

SB 170, introduced by Gebhardt

Senator Gillan present.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 10, introduced by Steinbeisser, referred to Agriculture, Livestock and Irrigation.

The following House bill was introduced, read first time, and referred to committee:

HB 290, introduced by Grinde, MacDonald, referred to Agriculture, Livestock and Irrigation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Tutvedt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 38 - Senator T. Brown moved **HB 38** be concurred in. Motion carried as follows:

Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp,

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Hinkle, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 46 - Senator Zinke moved **HB 46** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 57 - Senator Branae moved **HB 57** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

HB 101 - Senator Steinbeisser moved **HB 101** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 114 - Senator Stewart-Peregoy moved **HB 149** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Bales, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 149 - Senator Esp moved **HB 149** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Hinkle.

Total 1

Absent or not voting: None.

Total 0

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

Excused: Squires.
Total 1

HB 244 - Senator Barkus moved **HB 244** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 39

Nays: Branae, Curtiss, Hamlett, Juneau, Kaufmann, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried.
Total 10

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 245 - Senator Erickson moved **HB 245** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: McGee, Ripley, Steinbeisser, J. Tropila.
Total 4

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 308 - Senator Laslovich moved **HB 308** be concurred in. Motion carried as follows:

Yeas: Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Gebhardt, Hinkle, Jackson, Laible, Ripley, Steinbeisser, Zinke, Mr. President.
Total 14

Absent or not voting: None.
Total 0

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

Excused: Squires.
Total 1

Senator McGee assumed the chair.

HB 426 - Senator Tutvedt moved **HB 426** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Tutvedt re-assumed the chair.

HJR 6 - Senator Hawks moved **HJR 6** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Barkus, Esp, Gebhardt, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Tutvedt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

HB 80 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Gebhardt.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 94 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: Essmann, Windy Boy.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 140 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Cooney, Erickson, Juneau, Kaufmann, Moss, M. Tropila.
Total 6

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

HB 151 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Barkus, Hinkle, Jackson, McGee, Ripley, Steinbeisser.
Total 7

Paired: Squires, Aye; Barkus, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 247 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 273 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 45

Nays: Balyeat, Esp, Hinkle, Zinke.
Total 4

Absent or not voting: None.
Total 0

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

Excused: Squires.
Total 1

HB 293 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 298 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HJR 17 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Brenden, Esp, McGee, Ripley.
Total 4

Paired: Squires, Aye; Esp, No.

SENATE JOURNAL
FIFTY-FOURTH LEGISLATIVE DAY - MARCH 11, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 506, introduced by Essmann, McAlpin, referred to Taxation.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, March 12, 2009. Motion carried.

Senate adjourned at 2:14 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
March 12, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Squires, Senator Wanzenried, excused. Quorum present.

BILLS AND JOURNALS:

3/12/2009

Correctly printed: **SB 506, SR 10, HB 27, HB 38, HB 46, HB 48, HB 57, HB 82, HB 101, HB 114, HB 118, HB 137, HB 149, HB 203, HB 223, HB 244, HB 245, HB 294, HB 308, HB 311, HB 383, HB 425, HJR 6.**

Correctly engrossed: **SB 100, HB 179.**

Correctly enrolled: **SB 155, SB 160, SB 196, SB 262.**

Signed by the Speaker at 9:30 a.m., March 12, 2009: **SB 72, SB 157, SB 161, SB 252.**

Signed by the Secretary of the Senate at 2:55 p.m., March 11, 2009: **SB 91, SB 103, SB 256, SJR 2, SJR 14.**

Signed by the President at 4:00 p.m., March 11, 2009: **SB 91, SB 103, SB 256, SJR 2, SJR 14.**

Examined by the sponsor and found to be correct: **SB 91, SB 103, SB 256, SJR 2, SJR 14.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

3/11/2009

HB 119, be amended as follows:

1. Title, page 1, line 11.

Following: "~~CONDITIONS;~~"

Insert: "INCLUDING RELIGIOUS ORGANIZATIONS AS EMPLOYERS FOR WORKERS' COMPENSATION PURPOSES UNDER CERTAIN CONDITIONS;"

2. Title, page 1, line 12.

Following: "~~EMPLOYER;~~"

Insert: "CLARIFYING CERTAIN PROCEDURES USED BY THE UNINSURED EMPLOYERS' FUND;"

3. Title, page 1, line 19.

Following: "FUND;"

Insert: "CLARIFYING THE JURISDICTION OF THE WORKERS' COMPENSATION COURT;"

4. Title, page 1, line 20.

Following: "~~39-71-123;~~"

Insert: "39-71-117, 39-71-118, 39-71-123,"

Following: "~~39-71-501;~~"

Insert: "39-71-501, 39-71-506,"

5. Title, page 1, line 21.

Following: "39-71-2339,"

Insert: "39-71-2905,"

6. Title, page 1, line 22.

Following: "DATES"

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

7. Page 2.

Following: line 15

Insert: "NEW SECTION. Section 3. Uninsured employer as party to benefits disputes -- indemnification by uninsured employer for benefits paid -- lien for payment -- levy and execution. (1) An uninsured employer or an employer alleged to be uninsured is a party to all disputes concerning any benefits for which the employer may become obligated to indemnify the department pursuant to 39-71-504(1)(b).

(2) (a) After mediation pursuant to department rules, an uninsured employer or an employer alleged to be uninsured is joined as a party when a dispute over benefits is brought before the workers' compensation judge pursuant to 39-71-2905.

(b) The workers' compensation judge may enter a judgment, including a default judgment, requiring an uninsured employer to indemnify the department with respect to any benefits paid or ordered payable by the department in relation to the claim.

(c) If a judgment ordered under subsection (2)(b) includes a specific amount paid or ordered payable, the department may issue to the uninsured employer a certificate listing the amount of payment due and directing the clerk of the district court of any county in the state to enter the certificate as a judgment on the docket pursuant to 25-9-301. The judgment becomes a lien on all real property of the uninsured employer from the time of being entered on the docket.

(3) (a) An uninsured employer is obligated to make claim reimbursements as provided in 39-71-504(1)(b), plus the interest and other charges assessed on the claim reimbursement as provided in 39-71-504(2), when demand for those payments is made to the uninsured employer.

(b) If the uninsured employer does not make the payments and does not dispute the obligation in the manner provided by 39-71-520, the department may issue a certificate listing the amount of payment due and directing the clerk of the district court of any county in the state to enter the certificate as a judgment on the docket pursuant to 25-9-301. The judgment becomes a lien on all real property of the uninsured employer from the time of being entered on the docket.

(4) A judgment lien filed pursuant to this section may be renewed for another 10-year period upon motion of the lienholder or by a judgment for that purpose."

Renumber: subsequent sections

8. Page 15.

Following: line 6

Insert: "**Section 6.** Section 39-71-117, MCA, is amended to read:

"39-71-117. Employer defined. (1) "Employer" means:

(a) the state and each county, city and county, city school district, and irrigation district; all other districts established by law; all public corporations and quasi-public corporations and public agencies; each person; each prime contractor; each firm, voluntary association, limited liability company, limited liability partnership, and private corporation, including any public service corporation and including an independent contractor who has a person in service under an appointment or contract of hire, expressed or implied, oral or written; and the legal representative of any deceased employer or the receiver or trustee of the deceased employer;

(b) any association, corporation, limited liability company, limited liability partnership, or organization that seeks permission and meets the requirements set by the department by rule for a group of individual employers to operate as self-insured under plan No. 1 of this chapter; ~~and~~

(c) any nonprofit association, limited liability company, limited liability partnership, or corporation or other entity funded in whole or in part by federal, state, or local government funds that places community service participants, as described in 39-71-118(1)(e), with nonprofit organizations or associations or federal, state, or local government entities; and

(d) a religious corporation, religious organization, or religious trust receiving remuneration from nonmembers for agricultural production, manufacturing, or a construction project conducted by its members on or off the property of the religious corporation, religious organization, or religious trust.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

(2) A temporary service contractor is the employer of a temporary worker for premium and loss experience purposes.

(3) Except as provided in chapter 8 of this title, an employer defined in subsection (1) who uses the services of a worker furnished by another person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, is presumed to be the employer for workers' compensation premium and loss experience purposes for work performed by the worker. The presumption may be rebutted by substantial credible evidence of the following:

(a) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, furnishing the services of a worker to another retains control over all aspects of the work performed by the worker, both at the inception of employment and during all phases of the work; and

(b) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, furnishing the services of a worker to another has obtained workers' compensation insurance for the worker in Montana both at the inception of employment and during all phases of the work performed.

(4) An interstate or intrastate common or contract motor carrier that maintains a place of business in this state and uses an employee or worker in this state is considered the employer of that employee, is liable for workers' compensation premiums, and is subject to loss experience rating in this state unless:

(a) the worker in this state is certified as an independent contractor as provided in 39-71-417; or

(b) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation furnishing employees or workers in this state to a motor carrier has obtained Montana workers' compensation insurance on the employees or workers in Montana both at the inception of employment and during all phases of the work performed."

Insert: "Section 7. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, and volunteer firefighter defined. (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-1-301;

(g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1; ~~and~~

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(i) a member of a religious corporation, religious organization, or religious trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

(2) The terms defined in subsection (1) do not include a person who is:

(a) participating in recreational activity and who at the time is relieved of and is not performing prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket, permit, device, or other emolument of employment;

(b) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(c) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(c), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(d) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter any volunteer as defined in subsection (2)(c).

(4) (a) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a governmental fire agency organized under Title 7, chapter 33, except 7-33-4109.

(b) The term "volunteer hours" means all the time spent by a volunteer firefighter in the service of an employer, including but not limited to training time, response time, and time spent at the employer's premises.

(5) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$900 a month and not more than 1 1/2 times the state's average weekly wage.

(6) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (6)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state's average weekly wage.

(7) (a) The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may elect to include as an employee within the provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

(b) In the event of an election, the employer shall report payroll for all volunteer firefighters for premium and weekly benefit purposes based on the number of volunteer hours of each firefighter times the average weekly wage divided by 40 hours, subject to a maximum of 1 1/2 times the state's average weekly wage.

(c) A self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer firefighter pursuant to subsection (7)(a) and when injured in the course and scope of employment as a volunteer firefighter, may in addition to the benefits described in subsection (7)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may make an election for benefits. If an election is made, payrolls must be reported and premiums must be assessed on the assumed wage.

(8) Except as provided in chapter 8 of this title, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(9) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(10) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (10)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

- (iii) nonresident employees are supervised in Montana; and
- (iv) business records are maintained in Montana.

(11) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (10)(b) or (10)(d) as a condition of approving the election under subsection (10)(d)."

Insert: "Section 8. Section 39-71-123, MCA, is amended to read:

"39-71-123. Wages defined. (1) "Wages" means all remuneration paid for services performed by an employee for an employer, or income provided for in subsection (1)(d). Wages include the cash value of all remuneration paid in any medium other than cash. The term includes but is not limited to:

- (a) commissions, bonuses, and remuneration at the regular hourly rate for overtime work, holidays, vacations, and periods of sickness;
 - (b) backpay or any similar pay made for or in regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan;
 - (c) tips or other gratuities received by the employee, to the extent that tips or gratuities are documented by the employee to the employer for tax purposes;
 - (d) income or payment in the form of a draw, wage, net profit, or substitute for money received or taken by a sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that remuneration;
 - (e) board, lodging, rent, or housing if it constitutes a part of the employee's remuneration and is based on its actual value; and
 - (f) payments made to an employee on any basis other than time worked, including but not limited to piecework, an incentive plan, or profit-sharing arrangement.
- (2) The term "wages" does not include any of the following:
- (a) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, and other expenses, as set forth in department rules;
 - (b) the amount of the payment made by the employer for employees, if the payment was made for:
 - (i) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;
 - (ii) sickness or accident disability under a workers' compensation policy;
 - (iii) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family;
 - (iv) death, including life insurance for the employee or the employee's immediate family;
 - (c) vacation or sick leave benefits accrued but not paid;
 - (d) special rewards for individual invention or discovery; or
 - (e) monetary and other benefits paid to a person as part of public assistance, as defined in 53-4-201.
- (3) (a) Except as provided in subsection (3)(b), for compensation benefit purposes, the average actual earnings for the four pay periods immediately preceding the injury are the employee's wages, except that if the term of employment for the same employer is less than four pay periods, the employee's wages are the hourly rate times the number of hours in a week for which the employee was hired to work.

(b) For good cause shown, if the use of the last four pay periods does not accurately reflect the claimant's employment history with the employer, the wage may be calculated by dividing the total earnings for an additional period of time, not to exceed 1 year prior to the date of injury, by the number of weeks in that period, including periods of idleness or seasonal fluctuations.

(4) (a) For the purpose of calculating compensation benefits for an employee working concurrent employments, the average actual wages must be calculated as provided in subsection (3). As used in this subsection, "concurrent employment" means employment in which the employee was actually employed at the time of the injury and would have continued to be employed without a break in the term of employment if not for the injury.

(b) Except as provided in 39-71-118(7)(c), the compensation benefits for a covered volunteer must be based on the average actual wages in the volunteer's regular employment, except self-employment as a sole proprietor or partner who elected not to be covered, from which the volunteer is disabled by the injury incurred.

(c) The compensation benefits for an employee working at two or more concurrent remunerated employments must be based on the aggregate of average actual wages of all employments, except for the wages earned

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

by individuals while engaged in the employments outlined in 39-71-401(3)(a) who elected not to be covered, from which the employee is disabled by the injury incurred.

(5) For the purposes of calculating compensation benefits for an employee working for an employer, as provided in 39-71-117(1)(d), and for calculating premiums to be paid by that employer, the wages must be based upon all hours worked multiplied by the mean hourly wage by area, as published by the department in the edition of Montana Informational Wage Rates by Occupation, adopted annually by the department, that is in effect as of the date of injury or for the period in which the premium is due."

Renumber: subsequent sections

9. Page 19.

Following: line 28

Insert: "Section 11. Section 39-71-501, MCA, is amended to read:

"39-71-501. Definition of uninsured employer. For the purposes of 39-71-501, 39-71-503 through 39-71-511, ~~and~~ 39-71-515 through 39-71-520, and [section 3], "uninsured employer" means an employer who has not properly complied with the provisions of 39-71-401."

Insert: "Section 12. Section 39-71-506, MCA, is amended to read:

"39-71-506. Lien for payment of unpaid penalties, fees, and interest, ~~and claims~~ -- levy and execution. (1) (a) If, upon demand of the department, an uninsured employer refuses to make the payments to the fund that are provided for in 39-71-504(1)(a), (1)(c), and (2), the unpaid penalties, fees, and interest, ~~and claims~~ have the effect of a judgment against the employer at the time the payments become due. After issuing an order to the uninsured employer requiring payment of penalties, fees, and interest and after the due process requirements of 39-71-2401(2) and (3) are satisfied, the department may issue a certificate setting forth the amount of payment due and direct the clerk of the district court of any county in the state to enter the certificate as a judgment on the docket pursuant to 25-9-301. From the time the judgment is docketed entered on the docket, it becomes a lien upon all real property of the uninsured employer. ~~After satisfying any due process requirements, the~~ The department may enforce the judgment at any time within 10 years of creation of the lien.

(b) A judgment lien filed pursuant to this section may be renewed for another 10-year period upon motion of the lienholder or by a judgment for that purpose.

(2) The department may settle through compromise with an uninsured employer the amount due the fund under ~~39-71-504~~ subsection (1)."

Renumber: subsequent sections

10. Page 26, line 14.

Strike: "who is a"

Insert: "if the injury falls within the scope of the evaluator's practice and if the evaluator is one of the following:

(a) a physician or an osteopath licensed under Title 37, chapter 3, with admitting privileges to practice in one or more hospitals, if any, in the area where the physician or osteopath is located;

(b) a chiropractor licensed under Title 37, chapter 12;

(c) a physician assistant licensed under Title 37, chapter 20, if there is not a physician as provided for in subsection (2)(a) in the area where the physician assistant is located;

(d) a dentist licensed under Title 37, chapter 4;

(e) an advanced practice registered nurse licensed under Title 37, chapter 8; or

(f) for a claimant residing out of state or upon approval of the insurer, an evaluator referred to in subsections (2)(a) through (2)(e) who is licensed or certified in another state."

11. Page 26, line 15 through line 16.

Strike: "treating physician as defined in 39-71-116" on line 15 through "practice." on line 16

Following: "practice." on line 16

Insert: "(3)"

Renumber: subsequent subsection

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

12. Page 33.

Following: line 21

Insert: "Section 24. Section 39-71-2905, MCA, is amended to read:

"39-71-2905. Petition to workers' compensation judge -- time limit on filing. (1) ~~☆ If a claimant, or an insurer who,~~ an employer alleged to be an uninsured employer, or the uninsured employers' fund has a dispute concerning any benefits under this chapter, 71 of this title it may petition the workers' compensation judge for a determination of the dispute after satisfying dispute resolution requirements otherwise provided in this chapter. In addition, the district court that has jurisdiction over a pending action under 39-71-515 may request the workers' compensation judge to determine the amount of recoverable damages due to the employee. The judge, after a hearing, shall make a determination of the dispute in accordance with the law as set forth in this chapter 71 of this title. If the dispute relates to benefits due to a claimant under this chapter 71, the judge shall fix and determine any benefits to be paid and specify the manner of payment. After parties have satisfied dispute resolution requirements provided elsewhere in this chapter, the workers' compensation judge has exclusive jurisdiction to make determinations concerning disputes under this chapter 71, except as provided in 39-71-317 and 39-71-516. The penalties and assessments allowed against an insurer under this chapter 71 are the exclusive penalties and assessments that can be assessed by the workers' compensation judge against an insurer for disputes arising under this chapter 71.

(2) A petition for a hearing before the workers' compensation judge must be filed within 2 years after benefits are denied.""

Renumber: subsequent sections

13. Page 34.

Following: line 11

Insert: "(3) [Section 3] is intended to be codified as an integral part of Title 39, chapter 71, part 5, and the provisions of Title 39, chapter 71, part 5, apply to [section 3]."

14. Page 34, line 13.

Strike: "[This act]"

Insert: "Except as provided in [section 30], [this act]"

15. Page 34, line 18.

Strike: "9, 10, and 19 through 21"

Insert: "3, 11, 12, 15, 16, 24, 26 through 28, and 30"

16. Page 34.

Following: line 19

Insert: "NEW SECTION. Section 30. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to liens filed by the department of labor and industry on judgments issued against uninsured employers prior to [the effective date of this act] and to actions pending within the department of labor and industry or the workers' compensation court on [the effective date of this act] regarding benefit disputes and penalty disputes as provided in [sections 3, 12, and 24]."

And, as amended, be concurred in. Report adopted.

HB 204, be concurred in. Report adopted.

HB 283, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

3/11/2009

HB 304, be amended as follows:

1. Page 1.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Following: line 8

Insert: "WHEREAS, Trooper David A. Graham was a dedicated trooper to the safety and protection of the citizens of Montana; and

WHEREAS, David was dedicated to the happiness of his family and friends; and

WHEREAS, David will always be loved and missed dearly as he was the most helpful and loving person we have known."

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/12/2009

HB 45, be concurred in. Report adopted.

HB 545, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

3/11/2009

SR 2, introduced resolution, be amended as follows:

1. Page 3, line 3.

Strike: line 3 in its entirety

And, as amended, be adopted. Report adopted.

TAXATION (Essmann, Chairman):

3/12/2009

SB 244, introduced bill, be amended as follows:

1. Title, line 9 through line 13.

Strike: "REQUIRING" on line 9 through "FORM;" on line 13

2. Page 1, line 24 through line 30.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 2, line 12.

Strike: subsection (A) in its entirety

Renumber: subsequent subsections

4. Page 2, line 13.

Following: "DUE"

Insert: "with the tax return or"

5. Page 2, line 14.

Strike: "TAX"

Insert: "amount"

Following: "DUE;"

Insert: "or"

6. Page 12, line 4 through line 5.

Strike: section 5 in its entirety

Renumber: subsequent sections

7. Page 12, line 9.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Strike: "Sections 1(2) and 3"

Insert: "Section 2"

8. Page 12, line 15.

Strike: "[Sections" through "apply"

Insert: "[Section 2] applies"

And, as amended, do pass. Report adopted.

SB 264, introduced bill, be amended as follows:

1. Page 1, line 24.

Strike: "as defined in 90-5-101"

Insert: "or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code, 26 U.S.C. 144(a)"

2. Page 2, line 23.

Strike: "as defined in 90-5-101"

Insert: "or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code, 26 U.S.C. 144(a)"

And, as amended, do pass. Report adopted.

HB 24, be concurred in. Report adopted.

HB 163, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/11/2009

SB 155, introduced by Cooney

SB 160, introduced by Jent

SB 196, introduced by Windy Boy

SB 262, introduced by Wanzenried

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/11/2009

SB 54, introduced by Steinbeisser

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 11, introduced by Gebhardt, referred to Natural Resources.

SR 12, introduced by Gebhardt, referred to Natural Resources.

SR 13, introduced by Gebhardt, referred to Natural Resources.

SR 14, introduced by Gebhardt, referred to Natural Resources.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Squires present by telephone.

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gebhardt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 377 - Senator Perry moved **SB 377** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 32

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams.

Total 17

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 23 - Senator Cooney moved **HB 23** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 30 - Senator Cooney moved **HB 30** be concurred in. Motion **failed** as follows:

Yeas: Barrett, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Total 24

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 30 - Senator J. Peterson moved **HB 30** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 24

Nays: Barrett, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy.

Total 25

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 39 - Senator Perry moved **HB 39** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Barkus, Jackson.

Total 2

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 44 - Senator Curtiss moved **HB 44** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau,

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 70 - Senator Schmidt moved **HB 70** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 136 - Senator J. Tropila moved **HB 136** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy.

Total 39

Nays: Bales, Barkus, Black, Brenden, Esp, Hinkle, Laible, McGee, Zinke, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 192 - Senator Brueggeman moved **HB 192** be concurred in. Motion carried as follows:

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 34

Nays: Cooney, Erickson, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, Williams, Windy Boy.

Total 15

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

Senator McGee assumed the chair.

HB 278 - Senator Gebhardt moved **HB 278** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Branae, Cooney, Erickson, Gillan, Hansen, Jent, Juneau, Kaufmann, Moss, Schmidt, J. Tropila, M. Tropila.

Total 12

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Gebhardt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 38 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 45

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Nays: Balyeat, Hinkle, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Squires, Wanzenried.
Total 2

HB 46 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Wanzenried.
Total 2

HB 57 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Wanzenried.
Total 2

HB 101 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr.

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Wanzenried.
Total 2

HB 114 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires, Wanzenried.
Total 2

HB 149 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires, Wanzenried.
Total 2

HB 244 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen,

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Branae, Hamlett, Juneau, Kaufmann, Schmidt, J. Tropila, M. Tropila, Wanzenried.

Total 8

Paired: Laslovich, Aye; Wanzenried, No.

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 245 concurred in as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke.

Total 39

Nays: Bales, Balyeat, Hinkle, McGee, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, Mr. President.

Total 9

Absent or not voting: None.

Total 0

Excused: Squires, Wanzenried.

Total 2

HB 308 concurred in as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Ripley, Steinbeisser, Zinke, Mr. President.

Total 17

Paired: Wanzenried, Aye; Barkus, No.

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

HB 426 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Larsen.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires, Wanzenried.
Total 2

HJR 6 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Balyeat, Barkus, Esp, Essmann, Gebhardt, McGee.
Total 6

Absent or not voting: None.
Total 0

Excused: Squires, Wanzenried.
Total 2

MOTIONS

Senator Schmidt moved to change her vote on **HB 244** from yes to no. Without objection, so ordered

Senator Shockley moved to change his vote on **HB 38** from yes to no. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, March 13, 2009. Motion carried.

Senate adjourned at 3:08 p.m.

MARILYN MILLER

ROBERT STORY

SENATE JOURNAL
FIFTY-FIFTH LEGISLATIVE DAY - MARCH 12, 2009

Secretary of the Senate

President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
March 13, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Squires and Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

3/13/2009

Correctly printed: **SB 377, SR 11, SR 12, SR 13, SR 14, HB 23, HB 24, HB 39, HB 44, HB 45, HB 70, HB 136, HB 163, HB 192, HB 204, HB 278, HB 283, HB 545.**

Correctly engrossed: **SB 244, SB 264, SR 2, HB 119, HB 304.**

Correctly enrolled: **SB 5, SB 182, SB 201, SB 296, SB 331, SB 390, SJR 8.**

Examined by the sponsor and found to be correct: **SB 155, SB 160, SB 196.**

Signed by the Speaker at 1:45 p.m., March 12, 2009: **SB 91, SB 103, SB 256, SJR 2, SJR 14.**

Signed by the Secretary of the Senate at 4:19 p.m., March 12, 2009: **SB 155, SB 160, SB 196.**

Signed by the President at 4:20 p.m., March 12, 2009: **SB 155, SB 160, SB 196.**

Delivered to the Governor for approval at 4:10 p.m., March 12, 2009: **SB 72, SB 91, SB 103, SB 157, SB 161, SB 252.**

REPORTS OF STANDING COMMITTEES

FISH AND GAME (Barkus, Chairman):

3/13/2009

HB 366, be amended as follows:

1. Page 1, line 17 through line 18.

Strike: "body" on line 17 through "all" on line 18

2. Page 1, line 18.

Following: "water"

Strike: "similarly defined"

Insert: "designated in a reciprocal agreement as authorized in subsection (2)"

3. Page 2, line 1.

Following: "streams"

Insert: ", subject to the terms of a reciprocal agreement as authorized in 87-2-1001"

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/12/2009

HB 324, be amended as follows:

1. Title, line 11.

Strike: "A FIREARM"

Insert: "CERTAIN FIREARMS"

2. Page 1, line 17.

Strike: "any firearm"

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

Insert: "firearms that have been"

3. Page 1, line 18.

Following: "officer"

Insert: "and that are legal for a private citizen to possess"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/12/2009

HB 588, introduced by Ankney

HB 630, introduced by Sands

Senate amendments to House bill concurred in: 3/12/2009

HB 287, introduced by Driscoll

Senate bills concurred in and returned to the Senate: 3/12/2009

SB 5, introduced by Erickson

SB 182, introduced by Esp

SB 201, introduced by Laslovich

SB 296, introduced by Essmann

SB 331, introduced by Balyeat

SB 390, introduced by McGee

Senate joint resolution concurred in and returned to the Senate: 3/12/2009

SJR 8, introduced by Hawks

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 3/12/2009

SB 47, introduced by Steinbeisser

Delivered to the Secretary of State at 3:58 p.m., March 12, 2009: **SJR 2, SJR 14.**

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 507, introduced by Story, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 588, introduced by Ankney, Berry, referred to Taxation.

HB 630, introduced by Sands, Driscoll, Gillan, MacDonald, referred to Local Government.

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

MOTIONS

Senator Cooney moved to reconsider action on **HB 30** and that **HB 30** be placed on second reading on the 58th Legislative Day.

Senator Cooney withdrew his motion.

Senator Cooney moved that **HB 30** be scheduled for second reading on the 58th Legislative Day.

Senator Peterson made a substitute motion that **HB 30** be indefinitely postponed. Motion **failed** as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 25

Nays: Balyeat, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator McGee made a substitute motion that **HB 30** be tabled. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 27

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

A Joint Proclamation of the Senate and the House of Representatives of the State of Montana was read commending Zachary Bell, an 11-year-old Great Falls boy, who was treated at Shodair Children's Hospital, and who will be Montana's representative to the Children's Miracle Network for 2009.

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 377 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 17

Paired: Essmann, Aye; Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 23 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 39 concurred in as follows:

Yeas: Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Bales, Balyeat, Black, Esp, Gallus, Hinkle, Jackson.

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

Total 7

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 44 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Gallus.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 70 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 136 concurred in as follows:

Yeas: Balyeat, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 39

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

Nays: Bales, Barkus, Black, Brenden, Esp, Gallus, Gebhardt, Hinkle, McGee, Mr. President.
Total 10

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 192 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 36

Nays: Cooney, Gallus, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Squires, J. Tropila, Williams, Windy Boy.
Total 14

Paired: Essmann, Aye; Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 278 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 39

Nays: Cooney, Erickson, Gallus, Jent, Juneau, Kaufmann, Moss, J. Tropila, M. Tropila, Wanzenried.
Total 10

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SPECIAL ORDERS OF THE DAY

U.S. Army Sergeant Mary Dague, a war veteran from Superior, who was injured in Iraq, was introduced by Representative Hendrick, and spoke to the body.

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brenden in the chair.

Senator Squires present by telephone.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 288 - Senator McGee moved consideration of **HB 288** be placed at the bottom of the second reading board. Without objection, motion carried.

HB 285 - Senator Kaufmann moved **HB 285** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 29 - Senator Moss moved **HJR 29** be concurred in. Motion carried as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Hinkle, Jackson, Laible, McGee, Ripley, Steinbeisser, Tutvedt, Zinke.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 27 - Senator Lewis moved **HB 27** be concurred in. Motion carried as follows:

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

Yeas: Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Esp, Essmann, Hinkle, Laible, McGee, Perry, Ripley, Shockley, Steinbeisser, Zinke, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brenden moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

Senator Barkus thanked the Pages for their work during the week of March 9-14, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate recess and proceed to the house of Representatives to hear an address by Congressman Dennis Rehberg. Upon adjournment of the joint session, the Senate will be adjourned until the hour of 8:00 a.m., Saturday, March 14, 2009. Motion carried.

The Senate recessed to the House of Representatives.

After the Senate was introduced in the House chambers, President Story assumed the chair. Senator Peterson moved that the body resolve itself into a joint session for the purpose of receiving an address by Congressman Denny Rehberg. Motion carried.

Senator Peterson moved that the President be authorized to appoint a committee of four to notify Congressman Rehberg that the House and Senate are in joint session and ready to receive his address. Motion carried.

President Story appointed Senator Barkus, Senator Hamlett, Representative Miller, and Representative A. Noonan, and the committee escorted Congressman Rehberg into the House chambers.

Congressman Rehberg delivered the following address:

Thank you, Speaker Bergren and President Story. It's always good to be back. I stand here in admiration and appreciation of all of you in this legislative body, who serve our great state with such commitment and diligence. I am proud to have been a part of this process. I learned a great deal here. In fact some of those lessons would be helpful to the folks who serve with me in the Congress of the United States. The way you conduct business in this chamber has distinct advantages over the way things have been done lately in Washington, D.C. Part of that is because you work in the state you serve, while Washington, D.C. is 2,000 miles away. Here, you are held accountable

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

for transparency, while in Washington, it's become the norm to negotiate in the dark of night behind closed doors. That's why I've been in the export business for the last nine years. I've been in the business of exporting some Montana common sense - and some values to boot.

And I'll tell you what, you never know when you'll get the opportunity to share a little bit of Montana with someone. Last September, then-Senator Obama tracked me down on the House floor. He didn't want to talk about the campaign or the economic crisis. He wanted to talk about fly-fishing and his new found love of Montana. He asked me to teach him how to fly-fish, so I simply told him lesson 1: 10 and 2; 10 and 2. This story illustrates something we instinctively already know. We know it because we see the number of California license plates on Montana roads every summer (and then most of them quickly heading back south when it starts getting cold). The rest of the country sees something special here. They see something they want to be a part of. And yet, I am also aware the challenges facing our country and the world are as serious as they are real. The well-being of millions of people is at stake. I believe the ideals and values that govern this building are the answer to the bigger problems that impact us all. What are the lessons of this building? In Montana, we shoot straight, and I mean that literally and figuratively. Just as you are, I'm motivated to do my best for the good of our state and country. I'm guided by my beliefs, the history of our great Nation, my philosophy of government, and by the lessons I learned in this very Chamber. I believe there is clearly a role for government in our lives, but there is also the need for individual responsibility, effort, and accountability. I believe in capitalism - free markets - as the economic engine that has provided the greatest material benefits and opportunities for mankind. But, I recognize the role of government in preventing or punishing abuses of the system. And when things get tough, you don't throw your values out the window. That's the time when you need to cling to them the tightest. I'm under no illusions that things aren't tough right now. In February alone, another 650,000 Americans lost their jobs. Those figures bring total job losses in the last year to a staggering 5 million. The national unemployment rate now stands at the highest level since December of 1983. Some economists think it could hit 10 percent by the end of next year. And personal wealth of American families has plummeted. Home values are dropping while energy costs are rising and consumer confidence is at an all-time low.

But these are just numbers that politicians and economists use to objectively measure the real pain that people are feeling. A few weeks ago, I held a town hall meeting in Kalispell to talk to real Montanans about the economy. I wanted to hear their thoughts and feelings because numbers on an economic spreadsheet don't give you that insight. More than 300 people filled that room. And everyone in this room knows what they told me because like me, you talk to them every day. They were scared. They were confused. They were angry. They were frustrated. They were our families, our neighbors, and our friends, and while I had to tell them that I didn't have all the answers, I promised them that no one in Washington would work harder to get them the real help they needed. Montanans expect hard work and honesty. These folks told me in a few hours what economists have been trying to find a formula to express for months. Our economy is in serious trouble, and we need to find a way to break the cycle of bad headlines.

I'm reminded of what Franklin Delano Roosevelt said in a similar situation. He said, "The only thing we have to fear is fear itself." What a remarkable statement. It means that fear itself is often the source - not the result - of our problems. In a crisis, any survival manual will tell you that the worst thing you can do is panic. If you find yourself drowning, the worst thing you can do as the water engulfs you is to thrash around in every direction at once. And yet the best word to describe the recent response in Washington, D.C. has been panic. Almost daily more and more proposals and actions for the federal government to borrow, spend, and tax are pushed forward. There have been so many, that it can be difficult to keep track of the total dollars involved. Remember the Fannie Mae & Freddie Mac bailout which cost taxpayers \$200 billion? Then the Bear Stearns bailout: \$29 billion. The AIG bailout: \$60 billion. The banking bailout: \$700 billion. We were promised salvation lay in a \$827 billion stimulus package and a massive \$410 billion appropriations bill. I voted against all of them. And just this week Speaker Pelosi was talking about the next stimulus. Let me be absolutely clear here. I was just as critical of the Bush Administration's panic-induced policies as I have been of President Obama's. Last fall, for example, I voted against President Bush's \$700 billion TARP proposal to rescue banks in 47 states (Montana was not one of them). I advocated alternatives. I publically said that there were less drastic solutions. I fought for bipartisan restraint. But panic ruled the day. Like a drowning swimmer, we were told the consequence of inaction was to sink and drown. Financial experts like Secretary Paulson,

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

Federal Reserve Chairman Ben Bernanke, and the current Treasury Secretary, Tim Geithner, told us that the bailout needed to be passed immediately. And so, like a panicked swimmer, Congress and the White House thrashed about wildly, spent \$700 billion and sank deeper into the water. By the way, it's important to remember that no one was advocating inaction. There were measured alternatives that were never given a chance. The idea that it was the bailout or nothing is a false choice that politicians invented to justify their votes to irate constituents back home. And you all know that I also voted against the \$827 billion stimulus package. Because again, Congress and the White House flailed around like a panicked swimmer, spending too much money on too many programs that have very little chance of stimulating the economy. I worked on and voted for an alternative stimulus package that focused on tax relief, not only for individuals but for small business as well. In fact, President Obama's own economic analysis showed that our alternative would have created twice as many jobs – for half the cost. I also asked House leadership to split the bill into two parts – the stimulus proposals in one part that could be quickly adopted, the other proposals for increasing social program spending to be considered more deliberately in the ordinary appropriations process. But panic again ruled the day, and we continued to deal with the symptoms and not the cause. The \$800 billion stimulus bill was pushed through the House without so much as a committee hearing. The House even ignored its own rule requiring the bill be put on the internet, so you could see it at least 48 hours before the vote. We were in such a panicked rush, we had only a few hours overnight to look through a 1,074-page bill. So I'm not surprised to hear there were miscalculations. A typical example came from right here in Montana where we were told that \$1.3 million taxpayer dollars were going to create 40 new jobs for the Flathead City-County Health Department. Turns out, the money will actually pay another year's salary for ten existing jobs and add only two more jobs during the next year. And while I don't think anyone was intentionally lying, we passed a bill that few understood, so it's not surprising that the numbers aren't panning out. We came up 38 jobs short of the estimate. Where's the accountability in that?

What a contrast to what you do in your appropriations process in Montana. The process is thorough – each line item is scrutinized and transparent. There are few, if any, secrets. When the committee's work is done, all the members of the Legislature have a good understanding of what is being spent and why. That is a marked difference from the process in the Congress, and, as a result, Congress does not produce as good a product as you do. I know there are some differences of opinion in Montana over how quickly the legislature should consider its bill regarding the stimulus and how much oversight the legislature should exercise as the money is spent. With the lack of transparency on this issue at the federal level, and the questionable estimates of the stimulus benefits we've seen, I would encourage you to provide as much public exposure, participation, and comment as possible during the legislative process. And I encourage you to do this by creating a broad-based stimulus oversight committee that includes policy-makers and members of the public. As a former Lt. Governor, I know that the executive branch has an inherently different perspective from that of the legislature, regardless of political party. Both perspectives should be involved throughout.

And that brings us to today, in this chamber, where all of us together are charged with plotting a path forward. No one is suggesting that we do nothing, but it's time to rethink the policies of panic. Now, more than ever, we need bipartisan restraint. Consider this as we look forward to the next major spending battle: The President's budget for the next fiscal year spends \$3.94 trillion. Almost half of this is deficit spending, creating the largest federal deficit ever – by a huge margin, and building the federal debt to more than \$12 trillion. It's difficult to imagine a number as large as a trillion. A trillion dollars is a million million. A one followed by 12 zeros. It's hard to get our minds around this figure, but here's one way to look at it. If you had a trillion dollars to spend, you could buy enough Chevrolet Malibu automobiles to comfortably seat about half the American population. And the President's budget spends almost four trillion dollars – almost half of it borrowed. Let's think about it another way. If we borrow the \$1.75 trillion in deficit spending contained in the President's budget, at an interest rate of just 3 percent, we could pay \$143 million every single day and still never be able to repay the debt. That's right, never. In fact, \$143 million dollars a day wouldn't even cover the interest.

You see, all we seem to be talking about these days is the need for action: pay any price, bear any burden. The need to work together to do – “something.” What's missing is an examination of the consequences of this action. There's no talk of bipartisan restraint. From spending policy to energy policy to tax policy – we need to show some restraint. The President's budget calls for trillions of dollars in future spending – such as the \$634 billion “down payment” in

SENATE JOURNAL
FIFTY-SIXTH LEGISLATIVE DAY - MARCH 13, 2009

his budget for a yet to be determined "overhaul" of the American healthcare system. On Tuesday, he called for a new massive overhaul of our education system that would spend even more federal dollars in amounts yet to be determined. And so far, the policies that have been promoted in Washington, D.C. have asked rural states like Montana to subsidize urban states like California. While we all pay for the bank bailout, remember that Montana banks didn't get a penny of TARP funds. And in the stimulus bill, every California resident received almost twice as much as every Montana resident even though we all pay the same federal taxes. Washington, D.C. is robbing Plentywood to pay Hollywood.

The lack of bipartisan restraint is also creeping into our energy policy in the form of so called "cap and trade" policies. Let me say right up front that I support a balanced energy plan that includes developing traditional fossil fuels, as well as alternatives such as wind, solar and geothermal, while at the same time also providing incentives for conservation and the development of new technologies. These "cap and trade" policies for greenhouse emissions, like the ones advocated in the President's budget and in the Western Governors Climate Change Initiative, are touted as market-based solutions to the threat of catastrophic climate change. Unfortunately, the solutions the cap and trade policies offer would increase taxes on traditional energy sources -- like coal, oil and gas -- until they become so expensive that alternatives like wind and solar -- which are currently more costly to consumers -- look like a great deal. Make no mistake about it, this is a carbon tax and some advocates of cap and trade even boast about bankrupting the coal industry. Now is definitely not the time to be talking about bankrupting any industry -- especially one that's currently responsible for more than half of Montana's electricity production. Montana cannot afford to hamstring our own economy, and whether its at the state or federal level, we need to refrain from choosing winners and losers in our energy marketplace.

Finally, the budget would repeal much of the tax relief we passed earlier this decade. Tax relief, by the way, which was not responsible for our current economic situation. Of course, a large percentage of the taxpayers targeted for an increase are small business owners. By raising their taxes, we are taking away opportunities and incentives for Americans to invest, compete, advance and grow in the private sector. We are strangling the goose that laid the golden egg. Worse, there are also efforts to limit charitable deductions and mortgage interest deductions for taxpayers. The last thing we should be doing right now is making home ownership more difficult and charitable contributions less advantageous. If some of these policies don't sound like a good idea to you, you're not alone. Members of Congress from both parties are beginning to realize that thrashing about in a panic is equally as ineffective as doing nothing. And doing the wrong thing is far more costly.

I know we have some differences of opinion in this room. Reasonable people can disagree. In fact, it's that disagreement that gives us strength. It's our ability to keep each other honest that gives democracy its edge. Our economic situation is not hopeless. We need to rise above party, but not principle, in dealing with these issues. We need bipartisan action, and we need bipartisan restraint. As Americans, we have more in common than we have differences as Republicans and Democrats, and I have always been willing to reach across the aisle to work with anyone that would come to the table. In fact, just a few weeks ago, when Congress passed the new SCHIP bill, which I crossed party lines to support, I was one of a handful of Republicans invited to the White House for the bill signing ceremony. You know what the first thing the President said to me when I showed up? He didn't want to talk about SCHIP. He said "Hey, Rehberg, look: 10 and 2; 10 and 2." And the President's comment is the hope that Montana's values stick with us in Washington, and that somewhere between 10 and 2 we'll find the right answer so we can stop acting like panicked swimmers, begin to tread water, then swim safely to shore. And history tells us that we'll be stronger for the effort. Thank you for the opportunity to be here today. God bless Montana and God bless America.

Senator Peterson moved that the joint session be adjourned. Motion carried.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
March 14, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gallus, Squires, and Windy Boy, excused. Quorum present.

Senator Windy Boy present.

BILLS AND JOURNALS:

3/14/2009

Correctly printed: **SB 507, HB 27, HB 285, HJR 29.**

Correctly engrossed: **HB 324, HB 366.**

Signed by the President at 8:10 a.m., March 14, 2009: **SB 5, SB 182, SB 201, SB 262, SB 296, SB 331, SB 390, SJR 8.**

Signed by the Secretary of the Senate at 3:25 p.m., March 13, 2009: **SB 5, SB 182, SB 201, SB 262, SB 296, SB 331, SB 390, SJR 8.**

Signed by the Speaker at 4:00 a.m., March 13, 2009: **SB 155, SB 160, SB 196.**

Delivered to the Governor for approval at 3:45 p.m., March 13, 2009: **SB 256.**

Examined by the sponsor and found to be correct: **SB 5, SB 182, SB 201, SB 262, SB 296, SB 331, SB 390, SJR 8.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second, forty-third, forty-fourth, and forty-fifth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

3/13/2009

HB 332, be concurred in. Report adopted.

HB 363, be concurred in. Report adopted.

HB 432, be concurred in. Report adopted.

HJR 27, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/13/2009

HB 67, be concurred in. Report adopted.

HB 129, be concurred in. Report adopted.

HB 270, be concurred in. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

3/13/2009

HB 78, be concurred in. Report adopted.

HB 402, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

3/13/2009

HB 93, be concurred in. Report adopted.

HB 367, be concurred in. Report adopted.

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

HJR 25, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):
SR 8, be adopted. Report adopted.

3/13/2009

MESSAGES FROM THE GOVERNOR

March 13, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 2** sponsored by Senator Cooney, **Senate Bill 24** sponsored by Senator Williams, **Senate Bill 29** sponsored by Senator Wanzenried, and **Senate Bill 43** sponsored by Senator Kaufmann on March 13, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/13/2009

SB 25, introduced by Wanzenried
SB 89, introduced by M. Tropila
SB 102, introduced by Brueggeman
SB 120, introduced by Zinke
SB 135, introduced by Larsen
SB 255, introduced by Tutvedt
SB 376, introduced by Black

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/13/2009

SB 49, introduced by Wanzenried

House bills passed and transmitted to the Senate for concurrence:

3/13/2009

HB 318, introduced by Kottel
HB 449, introduced by McChesney

Senate amendments to House bill concurred in:

3/13/2009

HB 172, introduced by Arntzen

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 318, introduced by Kottel, referred to Business, Labor, and Economic Affairs.

HB 449, introduced by McChesney, referred to Local Government.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 27 concurred in as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 36

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Hinkle, Laible, McGee, Perry, Ripley, Shockley, Steinbeisser, Zinke.

Total 13

Paired: Squires, Aye; Barkus, No.

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

HB 285 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Squires.

Total 2

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

HJR 29 concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Steinbeisser, Zinke.
Total 17

Paired: Squires, Aye; Barkus, No.

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

Senator Squires present by telephone.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Balyeat in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 288 - Senator McGee moved **HB 288** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Erickson, Kaufmann, Squires.
Total 3

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

HB 82 - Senator Gebhardt moved **HB 82** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann,

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

HB 118 - Senator Gebhardt moved **HB 118** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

HB 137 - Senator Shockley moved **HB 137** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

HB 179 - Senator Hawks moved **HB 179** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

HB - Senator McGee assumed the chair.

HB 203 - Senator Balyeat moved **HB 203** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

HB - Senator Balyeat re-assumed the chair.

HB 223 - Senator Jent moved **HB 223** be concurred in.

HB 223 - Senator Jent made a **substitute motion** that consideration of **HB 223** be passed for the day. Without objection, so ordered.

HB 294 - Senator Esp moved **HB 294** be concurred in. Motion carried as follows:

Yeas: Barkus, Barrett, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Ripley, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 35

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

Nays: Bales, Balyeat, Black, R. Brown, Curtiss, Hinkle, Jackson, McGee, Murphy, Peterson, Steinbeisser, Stewart-Peregoy, Tutvedt, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

Senator Squires excused.

HB 311 - Senator Jackson moved **HB 311** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

HB 383 - Senator Brenden moved **HB 383** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Squires.

Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Balyeat moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 508, introduced by Brueggeman, Sonju, Sesso, Vance, Laslovich, MacLaren, Hollenbaugh, Barkus, referred to Highways and Transportation.

SPECIAL ORDERS OF THE DAY

SR 2 - Senator Shockley moved that the following nominations transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution 2, and that they ayes and nays be spread upon the journal:

AIR POLLUTION CONTROL ADVISORY COUNCIL

Don Potts, Missoula
Bovard Tiberi, Bozeman

ALTERNATIVE HEALTH CARE BOARD

Kathleen Stevens, Billings
Nancy Aagenes, Helena
Margaret Beeson, Billings

BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS

Carl Thuesen, Billings
Shelly Engler, Bozeman
Teresa Wilson, Butte
Bayliss Ward, Bozeman

MONTANA ARTS COUNCIL

Jackie Parsons, Browning
Kathleen Schlepp, Miles City
Arlene Parisot, Helena
Tracy Linder, Molt
Corwin "Corky" Clairmont, Ronan
Jane Deshner, Billings

BOARD OF BANKING

Evelyn Casterlin, Vida
Mark Huber, Helena
Carolyn Colman, Great Falls
John King, Kalispell

BOARD OF BARBERS AND COSMETOLOGISTS

Maggie Burton-Blize, Missoula
Angela Printz, Livingston
Jamie Ausk Crisafulli, Glendive
Wendell Petersen, Missoula
William A. Graves, Great Falls

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

Maxine Collins, Helena
Delores Lund, Plentywood

CAPITAL INVESTMENT BOARD

Gary Buchanan, Billings
Robert W. Minto, Missoula
Robert Pancich, Great Falls
Lawrence A. Anderson, Great Falls
Ellen Feaver, Helena

BOARD OF CHIROPRACTORS

Scott Hansing, Helena

CLINICAL LABORATORY SCIENCE PRACTITIONERS

Rosemary Shively, Helena
Charlene Staffanson, Deer Lodge
Barbara Henderson, Miles City

COUNTY PRINTING BOARD

Dan Killoy, Miles City
Calvin J. Oraw, Sidney
Marianne Roose, Eureka
Milton Wester, Laurel

BOARD OF DENTISTRY

Aimee R. Ameline, Great Falls

ELECTRICAL BOARD

Marlene Egan, Helena
Jack Fisher, Butte

FACILITY FINANCE AUTHORITY

Matthew B. Thiel, Missoula

BOARD OF FUNERAL SERVICE

Ronald E. Brothers, Hamilton
Bart Thompson, Helena
John Tarr, Helena
William Cronin, Havre

BOARD OF HAIL INSURANCE

Gary Gollehon, Brady

BOARD OF HEARING AID DISPENSERS

Stephen Kramer, Billings
Gene W. Bukowski, Billings

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES

Sharon Lincoln, Billings
Janene Caywood, Missoula
Ed Smith, Helena

BOARD OF HORSERACING

Susan Austin, Kalispell
Charles (Al) Carruthers, Butte
John Ostlund, Billings
Ray "Topper" Tracy, Stevensville
Susan Egbert, Helena

BOARD OF LIVESTOCK

Brett DeBruycker, Dutton

LIVESTOCK LOSS REDUCTION AND MITIGATION BOARD

Elaine Allestad, Big Timber
Larry Trexler, Hamilton
Hilliard McDonald, Judith Gap
Janelle Holden, Livingston
Brad Radtke, Drummond
Whitney Wankel, Bozeman
James Cross, Kalispell

BOARD OF MEDICAL EXAMINERS

Patrick Boylan, Corvallis
James Upchurch, Hardin
Mary Anne Guggenheim, Helena
Dean Center, Bozeman

BOARD OF NURSING

Sharon Dschaak, Wolf Point
Laura Weiss, Great Falls
Kathy Hayden, Missoula
Heather Onstad, Helena

BOARD OF NURSING HOME ADMINISTRATORS

Carla Neiman, Plains
Ken Chase, Billings
Joshua Brown, Columbia Falls
Thomas Klotz, Glasgow

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Amy J. Gilbertson, Great Falls

BOARD OF OPTOMETRY

Delores Hill, Mosby
Douglas Kimball, Bozeman
Randall Hoch, Lewistown

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

BOARD OF PERSONNEL APPEALS

Jack A. Holstrom, Helena
Quinton Nyman, Helena

BOARD OF PHARMACY

Susan Hagan, Glasgow
Frances Carlson, Great Falls
Rebekah Matovich, Billings
Lee Ann Bradley, Missoula

BOARD OF PHYSICAL THERAPY EXAMINERS

Robin Peterson Smith, Billings
Ron Peterson, Cascade
Richard Smith, Missoula

BOARD OF PLUMBERS

David Lindeen, Huntley
Debi Friede, Havre
Steve Carey, Frenchtown
Marc Golz, Helena
Scott Lemert, Livingston
Jeffrey Gruizenga, Billings

PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS BOARD

John Santa, Kalispell
Mary Alexine, Eureka
Darcie Kelly, Helena
Penny James, Trout Creek
Tim Callahan, Great Falls

BOARD OF PRIVATE SECURITY

Mark Chaput, Billings
Raymond Murray, Missoula
Holly Dershem-Bruce, Glendive

PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Casey E. Johnston, Butte
Vic Cundy, Bozeman
James Hahn, Billings
Tom Tanner, Arlee

BOARD OF PSYCHOLOGISTS

Marla Lemons, Butte
Linda Holden, Valier
Susan Mattocks, Miles City

BOARD OF PUBLIC ACCOUNTANTS

Beatrice Rosenleaf, Anaconda
Jack Meyer, Missoula

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

BOARD OF PUBLIC EDUCATION

Bernard Olson, Lakeside

PUBLIC EMPLOYEES RETIREMENT BOARD

Dianna Porter, Butte

Darcy Halpin, Belgrade

Loren Bough, Big Sky

PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Winnie Ore, Helena

Mike Anderson, Havre

Bonnie Wallem, Kalispell

Mike Reddick, Helena

James Marble, Stevensville

Tony Harbaugh, Miles City

Steve Barry, Helena

Levi Talkington, Lewistown

Dennis McCave, Billings

Frances Weeks, Poplar

Robert McCarthy, Butte

Raymond Murray, Missoula

Hannah Tillman, Crow Agency

BOARD OF RADIOLOGIC TECHNOLOGISTS

Mike Nielsen, Billings

BOARD OF REAL ESTATE APPRAISERS

Dennis Hoeger, Bozeman

Jennifer McGinnis, Polson

Marilyn Rose, Great Falls

Peter Fontana, Great Falls

Kraig P. Kosena, Missoula

BOARD OF REALTY REGULATION

Shirley McDermott, Laurel

C.E. "Abe" Abramson, Missoula

Connie Wardell, Billings

Larry Milless, Corvallis

Pat M. Goodover II, Great Falls

BOARD OF REGENTS

Clayton Christian, Missoula

Mitchell Jessen, Dillon

RESEARCH AND COMMERCIALIZATION TECHNOLOGY BOARD

Jim Davison, Anaconda

BOARD OF RESPIRATORY CARE PRACTITIONERS

Thomas Fallang, Butte

Carl Hallenborg, Helena

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

BOARD OF SANITARIANS

James Zabrocki, Miles City
Kathleen Driscoll, Hamilton
Gene Townsend, Three Forks
Gerald Cormier, Billings

BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS

Ann Gilkey, Helena
Linda Crummett, Billings
Teresa Glinnwater, Ronan
John Lynn, Missoula
Henry Pretty On Top, Lodge Grass

BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Sharon Dinstel, Colstrip
James L. Sias, Ronan
Cheri Fjare, Big Timber
Tina Hoagland, Billings
Lynn Harris, Missoula

STATE COMPENSATION INSURANCE FUND BOARD

Joe Dwyer, Billings
Wallace M. Yovetich, Billings
Boyd Taylor, Butte
Thomas R. Heisler, Great Falls

STATE TAX APPEALS BOARD

Karen E. Powell, Helena

TRANSPORTATION COMMISSION

Barb Skelton, Billings
Rick Griffith, Butte
Diann Seymour-Winterburn, Helena

BOARD OF VETERANS' AFFAIRS

C.E. Crookshanks, Missoula
Lloyd Jackson, Pablo
Bob Pavlovich, Butte
Harvey Rattey, Glendive
James Heffernan, Helena
Donald Kettner, Glendive

BOARD OF VETERINARY MEDICINE

Barbara Calm, Kila
Kim K. Baker, Hot Springs
Jean Lindley, Miles City

Motion adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
FIFTY-SEVENTH LEGISLATIVE DAY - MARCH 14, 2009

Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: Gallus, Squires.
Total 2

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, March 16, 2009. Motion carried.

Senate adjourned at 9:17 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
March 16, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Hawks, Laible, Ripley, and Squires, excused. Quorum present.

BILLS AND JOURNALS:

3/16/2009

Correctly printed: **SB 508, SR 8, HB 67, HB 78, HB 82, HB 93, HB 118, HB 129, HB 137, HB 179, HB 203, HB 270, HB 288, HB 294, HB 311, HB 332, HB 363, HB 367, HB 383, HB 402, HB 432, HJR 25, HJR 27.**

Correctly enrolled: **SB 25, SB 89, SB 102, SB 120, SB 135, SB 255, SB 376, SR 2.**

Signed by the Speaker at 8:30 a.m., March 16, 2009: **SB 5, SB 182, SB 201, SB 262, SB 296, SB 331, SB 390, SJR 8.**

Delivered to the Governor for approval at 8:05 a.m., March 16, 2009: **SB 155, SB 160, SB 196.**

Delivered to the Governor for approval at 11:20 a.m., March 16, 2009: **SB 5, SB 182, SB 201, SB 262, SB 296, SB 331, SB 390.**

Delivered to the Secretary of State at 10:00 a.m., March 16, 2009: **SJR 8.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

3/16/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, March 14, 2009:

TITLE

NAME

Pages:

Lisa Laslovich, Anaconda
McCall Flynn, Anaconda
Marion Min, Ryegate
Sarah Kirchner, Kalispell
Nicole Veltkamp, Stevensville
Ronald "Tres" Storey III, Yellowtail
Taylor Simkins, Missoula

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 16, 2009:

TITLE

NAME

Pages:

Chance Wilson, Scobey
Jackson Bolstad, Homestead
Jamie Balyeat, Bozeman
Danielle "Danie" Jacobs, Great Falls
Kelsey Barker, Augusta
Lillian Alvernaz, Glasgow
Sean Ryan, Great Falls

Report Adopted.

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):
SB 114, introduced bill, be amended as follows:

3/16/2009

1. Page 2, line 13.

Following: "biennium"

Insert: ", excluding the amount in the account provided for in [section 1],"

2. Page 3, line 17.

Following: "biennium"

Insert: ", excluding the amount in the account provided for in [section 1],"

And, as amended, do pass. Report adopted.

SB 435, introduced bill, be amended as follows:

1. Title, line 7.

Following: "STATE;"

Insert: "PROVIDING EXCEPTIONS;"

2. Page 2, lines 3 and 4.

Following: "commissioners." on line 3

Strike: remainder of line 3 through "state." on line 4

3. Page 2, lines 26 and 27.

Following: "commissioners." on line 26

Strike: remainder of line 26 through "state." on line 27

4. Page 6, line 14.

Following: "state"

Insert: ", except that a cumulative total of 3,000 acres may be held for fishing access sites and public access"

5. Page 7, line 30 through page 8, line 1.

Following: "commissioners." on line 30

Strike: remainder of line 30 through "state." on page 8, line 1

6. Page 17, line 5.

Following: "state" on line 5

Insert: ", except that a cumulative total of 3,000 acres may be held for fishing access sites and public access"

7. Page 18, line 28.

Following: "state"

Insert: ", except that a cumulative total of 3,000 acres may be held for fishing access sites and public access"

8. Page 19, line 22.

Following: "state"

Insert: ", except that a cumulative total of 3,000 acres may be held for fishing access sites and public access"

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

9. Page 20, line 7.

Following: "state"

Insert: ", except that a cumulative total of 3,000 acres may be held for fishing access sites and public access"

And, as amended, do pass. Report adopted.

SB 452, introduced bill, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "PROVIDING" on line 6 through "AUDITOR;" on line 7

2. Title, page 1, line 9.

Following: "SECTIONS"

Insert: "2-1-405, 2-1-408,"

Following: "2-4-302,"

Strike: "5-13-308,"

Insert: "AND"

Following: "17-7-111,"

Strike: "AND 17-7-124,"

3. Page 1, following line 13.

"Section 1. Section 2-1-405, MCA, is amended to read:

"2-1-405. Requirement for budget recommendation -- reporting on federal mandates -- savings. Prior to recommending to the legislature a budget for a state agency that is charged with implementing federal mandates, the governor shall require that the state agency provide information regarding any monetary savings for the state and any reduction in regulatory burdens on local governments and on the public that could be or have been achieved through the development of state policies that meet the intent of applicable federal statutes but do not necessarily follow all applicable federal regulations, guidelines, or policies. The state agency shall also provide advice to the governor regarding any changes in state statutes that are necessary to provide the state agency the authority to implement state policies in such a way as to create additional savings or greater reductions in regulatory burdens. The governor shall review and compile the information received from state agencies pursuant to this section and shall include recommendations regarding any changes in state statutes that are necessary to provide the state agency with authority to implement state policies in a way that will create additional savings or greater reductions in regulatory burdens in the governor's budget based upon the information."

"Section 2. Section 2-1-408, MCA, is amended to read:

"2-1-408. Legislative review and oversight. (1) In exercising its authority as an equal branch of state government, the legislature may conduct any legal review or fiscal analysis that it considers necessary to effect the purpose and intent of this part. The governor, the director or chief executive officer of any agency within the executive branch, or any officer listed in Article VI, section 1, of the Montana constitution shall, upon request by the legislature, immediately provide any information prepared, compiled, developed, detailed, described, referenced, analyzed, reported, or in any other manner considered in conjunction with this part.

(2) In receiving the information described in subsection (1), the legislature is bound by the provisions of Article II, sections 9 and 10, of the Montana constitution.

(3) For the purposes of this section, the legislature includes the senate and the house of representatives, acting jointly or separately, and includes the legislative council.

(4) The legislature may request the assistance of any staff employed by the legislature, including the legislative auditor."

Renumber: subsequent sections

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

4. Page 3, line 28 through page 4, line 12.

Strike: section 2 in its entirety

Renumber: subsequent sections

5. Page 7, line 13 through line 20.

Strike: section 4 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 460, introduced bill, be amended as follows:

1. Page 2, lines 8 and 9.

Following: "distribution"

Insert: "and use"

Following: "funds"

Strike: remainder of line 8 through "expenditures" on line 9

2. Page 2, line 10.

Following: "(2)"

Strike: "The"

Insert: "In order to ensure that the stimulus money is being used effectively and efficiently, the"

Following: "include"

Insert: "but are not limited to"

3. Page 2, line 12.

Strike: "criteria developed for setting priorities are"

Insert: "legislative intent in funding the project is"

4. Page 2, line 15.

Strike: "determining"

Insert: "evaluating the implementation and"

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/16/2009

HB 623, be amended as follows:

1. Title, line 5.

Strike: "NONPROFIT"

2. Page 1, line 18.

Strike: "nonprofit"

3. Page 1, line 20.

Strike: "nonprofit"

4. Page 1, line 24.

Strike: "nonprofit"

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

5. Page 1, line 25.

Strike: "nonprofit"

6. Page 1, line 27.

Following: "used to"

Insert: "permanently"

Strike: "permanent"

7. Page 2, line 6.

Strike: "nonprofit"

8. Page 2, line 18.

Strike: "nonprofit"

9. Page 2, line 21.

Strike: "nonprofit"

10. Page 2, line 25.

Strike: "nonprofit"

11. Page 2, line 26.

Strike: "nonprofit"

12. Page 3, line 25.

Strike: "nonprofit"

13. Page 3, line 27.

Strike: "nonprofit"

14. Page 4, line 1.

Strike: "nonprofit"

15. Page 4, line 2.

Strike: "nonprofit"

16. Page 4, line 4.

Following: "used to"

Insert: "permanently"

Strike: "permanent"

17. Page 4, line 21.

Strike: "nonprofit"

18. Page 4, line 23.

Strike: "nonprofit"

19. Page 4, line 27.

Strike: "nonprofit"

20. Page 4, line 28.

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

Strike: "nonprofit"

21. Page 4, line 30.

Following: "used to"

Insert: "permanently"

Strike: "permanent"

22. Page 5, line 10.

Strike: "nonprofit"

23. Page 5, line 12.

Strike: "nonprofit"

24. Page 5, line 16.

Strike: "nonprofit"

25. Page 5, line 17.

Strike: "nonprofit"

26. Page 5, line 24.

Following: "used to"

Insert: "permanently"

Strike: "permanent"

27. Page 6, line 24.

Strike: "nonprofit"

28. Page 6, line 27.

Strike: "nonprofit"

29. Page 7, line 1.

Strike: "nonprofit"

30. Page 7, line 2.

Strike: "nonprofit"

31. Page 7, line 4.

Following: "used to"

Insert: "permanently"

Strike: "permanent"

32. Page 8, line 1.

Strike: "nonprofit"

33. Page 8, line 3.

Strike: "nonprofit"

34. Page 8, line 7.

Strike: "nonprofit"

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

35. Page 8, line 8.

Strike: "nonprofit"

36. Page 8, line 10.

Following: "used to"

Insert: "permanently"

Strike: "permanent"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/16/2009

HB 12, introduced by Wilmer

HB 85, introduced by Sands

HB 135, introduced by Belcourt

HB 161, introduced by Augare

HB 480, introduced by Pomnichowski

Senate amendments to House bill concurred in: 3/16/2009

HB 80, introduced by Kottel

Senate bills concurred in and returned to the Senate: 3/16/2009

SB 77, introduced by Juneau

SB 150, introduced by Brueggeman

Senate joint resolutions concurred in and returned to the Senate: 3/16/2009

SJR 5, introduced by Laible

SJR 6, introduced by Hansen

SJR 16, introduced by R. Brown

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 509, introduced by Gebhardt, referred to Taxation.

SB 510, introduced by Gebhardt, referred to Taxation.

Senator Hawks present.

Senator Laible, Senator Ripley present.

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Kaufmann in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 223 - Senator Jent moved **HB 223** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 38

Nays: Balyeat, Brenden, Curtiss, Esp, Hinkle, Jackson, Laible, McGee, Murphy, Shockley, Mr. President.

Total 11

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 37 - Senator Shockley moved **HB 37** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, Brenden, Hinkle, Jackson.

Total 4

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 48 - Senator T. Brown moved **HB 48** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

Nays: Balyeat, Esp, Essmann, Hinkle.
Total 4

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 119 - Senator Barkus moved **HB 119** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 39

Nays: Balyeat, Curtiss, Esp, Gebhardt, Hamlett, Hinkle, Jackson, McGee, Stewart-Peregoy, Mr. President.
Total 10

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 204 - Senator Esp moved **HB 204** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Hinkle.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 283 - Senator R. Brown moved **HB 283** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 304 - Senator Zinke moved **HB 304** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 40 - House Amendments - Senator Juneau moved House amendments to **SB 40** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 54 - House Amendments - Senator Steinbeisser moved House amendments to **SB 54** be concurred in. Motion carried as follows:

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 74 - House Amendments - Senator Laible moved House amendments to **SB 74** be concurred in. Motion **failed** as follows:

Yeas: Cooney, Curtiss, Hamlett, Hansen, Hawks, Juneau, Laible, Larsen, Moss, Ripley, Schmidt, Shockley, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 16

Nays: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hinkle, Jackson, Jent, Kaufmann, Keane, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Zinke, Mr. President.

Total 33

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SB 88 - House Amendments - Senator M. Tropila moved House amendments to **SB 88** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

Excused: Squires.
Total 1

SB 170 - House Amendments - Senator Gebhardt moved House amendments to **SB 170** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Kaufmann moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 82 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Hinkle.
Total 2

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

HB 118 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 137 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 179 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

Excused: Squires.
Total 1

HB 203 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 288 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Erickson, Gallus, Hawks, Juneau, Kaufmann, Squires, Williams.
Total 7

Paired: Laslovich, Aye; Squires, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 294 concurred in as follows:

Yeas: Barkus, Barrett, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 37

Nays: Bales, Balyeat, Black, R. Brown, Curtiss, Hinkle, Jackson, McGee, Peterson, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 13

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

Paired: Squires, Aye; R. Brown, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 311 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 383 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 12, introduced by Wilmer (by request of the Public Employees' Retirement Board), referred to State Administration.

HB 85, introduced by Sands (by request of the Children, Families, Health, and Human Services Interim Committee),

SENATE JOURNAL
FIFTY-EIGHTH LEGISLATIVE DAY - MARCH 16, 2009

referred to Public Health, Welfare and Safety.

HB 135, introduced by Belcourt (by request of the Reserved Water Rights Compact Commission), referred to Finance and Claims.

HB 161, introduced by Augare (by request of the Reserved Water Rights Compact Commission), referred to Natural Resources.

HB 480, introduced by Pomnichowski, referred to Fish and Game.

MOTIONS

Senator Hinkle moved to change his vote on **HB 48** from yes to no. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, March 17, 2009. Motion carried.

Senate adjourned at 2:04 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
FIFTY-NINTH LEGISLATIVE DAY**

Helena, Montana
March 17, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Keane, Squires, and Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

3/17/2009

Correctly printed: **SB 509, SB 510, HB 37, HB 48, HB 119, HB 204, HB 223, HB 283, HB 304.**

Correctly engrossed: **SB 114, SB 435, SB 452, SB 460, HB 623.**

Correctly enrolled: **SB 77, SB 150, SJR 5, SJR 6, SJR 16.**

Signed by the Speaker at 9:30 a.m., March 17, 2009: **SB 25, SB 89, SB 102, SB 120, SB 135, SB 255, SB 376.**

Signed by the President at 4:00 p.m., March 16, 2009: **SB 25, SB 89, SB 102, SB 120, SB 135, SB 255, SB 376, SR 2.**

Signed by the Secretary of the Senate at 3:00 p.m., March 16, 2009: **SB 25, SB 89, SB 102, SB 120, SB 135, SB 255, SB 376, SR 2.**

Delivered to the Governor for approval at 10:35 a.m., March 17, 2009: **SB 25, SB 89, SB 102, SB 120, SB 135, SB 255, SB 376.**

Examined by the sponsor and found to be correct: **SB 25, SB 89, SB 102, SB 120, SB 135, SB 255, SB 376, SR 2.**

Delivered to the Secretary of State at 11:19 a.m., March 17, 2009: **SR 2.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

3/17/2009

HB 326, be concurred in. Report adopted.

HB 387, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

3/17/2009

HB 513, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

3/16/2009

HB 55, be amended as follows:

1. Title, line 6.

Following: "OFFENDER;"

Insert: "REQUIRING NOTIFICATION TO SCHOOL DISTRICTS;"

2. Page 1, line 27.

Following: "subsection"

Strike: "(5)"

Insert: "(6)"

3. Page 2, line 21 through line 25.

Following: "offender" on line 21

Insert: ", "

Strike: remainder of line 21 through "(II)" on line 25

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

4. Page 2, line 26.

Following: "BY THE"

Insert: "youth court or the"

5. Page 3, line 2.

Following: line 1

Insert: "(3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication, any terms of probation or parole, and the facts of the offense for which the youth was adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the superintendent."

Renumber: subsequent subsections

And, as amended, be concurred in. Report adopted.

HB 133, be amended as follows:

1. Title, line 8.

Following: "40-5-601,"

Strike: "40-5-821,"

2. Page 10, line 7 through line 16.

Strike: section 6 in its entirety

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 150, be amended as follows:

1. Page 2, line 16.

Following: "any"

Strike: "commonly understood"

2. Page 3, line 5 through line 6.

Following: "providers" on line 5

Strike: remainder of line 5 through "entity" on line 6

3. Page 3, line 12.

Following: "in"

Strike: "23-2-733 through 23-2-736"

Insert: "Title 23, chapter 2, part 7"

And, as amended, be concurred in. Report adopted.

HB 372, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/16/2009

HB 230, be concurred in. Report adopted.

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

NATURAL RESOURCES (Gebhardt, Chairman): 3/17/2009
HJR 7, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman): 3/17/2009
HB 106, be concurred in. Report adopted.
HB 214, be concurred in. Report adopted.
HB 243, be concurred in. Report adopted.
HB 263, be concurred in. Report adopted.
HB 264, be concurred in. Report adopted.
HB 307, be concurred in. Report adopted.

TAXATION (Essmann, Chairman): 3/17/2009
SB 260, introduced bill, be amended as follows:

1. Title, line 5.

Following: "PARTNERSHIPS;"

Insert: "DEFINING THE RECAPTURE OF MONTANA SOURCE DEPRECIATION AND DEPLETION IN REGARD TO THE SALE BY A NONRESIDENT OF AN INTEREST IN A PUBLICLY TRADED PARTNERSHIP DOING BUSINESS IN MONTANA;"

2. Title, line 9.

Following: "SECTIONS"

Insert: "15-30-101,"

Following: "15-30-1102"

Insert: ", "

3. Page 1, line 13.

Insert: "**Section 1.** Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by 15-30-103(2), in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by 15-30-122(2), in effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

(a) that is treated as an association for federal income tax purposes;

(b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not in effect; and

(c) that is not a disregarded entity.

(4) "Department" means the department of revenue.

(5) "Disregarded entity" means a business entity:

(a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

(b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

(6) "Dividend" means:

(a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

(b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

(7) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(8) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana, as provided in 15-31-101.

(9) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.

(10) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code (26 U.S.C. 85) as amended.

(11) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June 2005.

(12) "Information agents" includes all individuals and entities acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(13) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

(14) "Knowingly" is as defined in 45-2-101.

(15) "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in 35-8-102.

(16) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

(17) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

(a) a resident taxpayer on a lottery ticket; or

(b) a nonresident taxpayer on a lottery ticket purchased in Montana.

(18) (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;

(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(viii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

(ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state; ~~and~~

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and

(xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment factor as provided in this subsection (18)(a)(xvii) does not fairly and equitably represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may require with respect to any and all of the partnership interest, the employment of another method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection (18)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(19) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(20) "Nonresident" means a natural person who is not a resident.

(21) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

(22) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

(23) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

(24) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

(25) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

(26) "Purposely" is as defined in 45-2-101.

(27) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued, and the term "received or accrued" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(28) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(29) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

(30) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(31) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

(32) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(33) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation."

Renumber: subsequent sections

4. Page 5, line 18 through line 19.

Strike: "beneficial" on line 18 through "ownership" on line 19

Insert: "person or entity that has an"

Strike: "with"

Insert: "in the partnership that results in"

Following: "\$500"

Insert: "or that has sold its interest in the partnership during the tax year"

5. Page 5, line 20.

Following: "30."

Insert: "A publicly traded partnership shall provide the department with the information in an electronic form that is capable of being sorted and exported. Compliance with this subsection does not relieve a person or entity from its obligation to pay Montana income taxes."

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

And, as amended, do pass. Report adopted.

SB 418, introduced bill, be amended as follows:

1. Page 9, line 12.

Insert: "NEW SECTION. Section 9. Coordination instruction. If House Bill No. 261 is not passed and approved, then [section 3 of this act], amending 15-30-136, is void."

Renumber: subsequent sections

2. Page 9, line 15.

Strike: "10(2)"

Insert: "11(2)"

And, as amended, do pass. Report adopted.

SB 467, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "LIEN"

Insert: "DEED"

2. Title, line 5.

Strike: "COMMITMENT"

Insert: "GUARANTEE"

3. Title, line 6.

Strike: "COMMITMENT"

Insert: "GUARANTEE"

4. Page 2, line 18.

Strike: "commitment"

Insert: "guarantee, approved by the insurance commissioner and issued by a licensed title insurance producer,"

5. Page 2, line 20.

Strike: "commitment"

Insert: "guarantee"

And, as amended, do pass. Report adopted.

SB 495, do pass. Report adopted.

HB 21, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence:

3/17/2009

HB 2, introduced by Sesso

HB 143, introduced by McAlpin

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

Senate bill concurred in and returned to the Senate:

3/17/2009

SB 438, introduced by Juneau

MOTIONS

Senator Peterson moved that the Senate appoint a conference committee on **SB 74** and requested the House to appoint a like committee. Motion carried. President Story appointed Senator Laible (Chairman), Senator Esp, and Senator Laslovich.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 15, introduced by Gallus, referred to Fish and Game.

SR 16, introduced by Gallus, referred to Fish and Game.

SR 17, introduced by Gallus, referred to Fish and Game.

The following House bills were introduced, read first time, and referred to committees:

HB 2, introduced by Sesso, referred to Finance and Claims.

HB 143, introduced by McAlpin, referred to Business, Labor, and Economic Affairs.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Schmidt in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading recommend as follows:

SB 100 - Senator J. Peterson moved consideration of **SB 100** be placed at the bottom of the second reading board. Motion carried.

HB 45 - Senator Curtiss moved **HB 45** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

HB 67 - Senator Jackson moved **HB 67** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 129 - Senator Gallus moved **HB 129** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Balyeat, Brenden, Curtiss, Hinkle, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 270 - Senator Tutvedt moved **HB 270** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 46

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

HB 324 - Senator Jackson moved **HB 324** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 332 - Senator Ripley moved **HB 332** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 43

Nays: Barkus, R. Brown, Gallus, Juneau.
Total 4

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 363 - Senator Black moved **HB 363** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

Senator Gallus excused at this time.

HB 366 - Senator Balyeat moved **HB 366** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 36

Nays: Erickson, Esp, Hansen, Hawks, Juneau, Kaufmann, Larsen, Stewart-Peregoy, Wanzenried, Williams.

Total 10

Absent or not voting: None.

Total 0

Excused: Gallus, Keane, Squires, Windy Boy.

Total 4

Senator Gallus present at this time.

HB 432 - Senator McGee moved **HB 432** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Zinke.

Total 41

Nays: Cooney, Erickson, Laslovich, Tutvedt, Wanzenried, Mr. President.

Total 6

Absent or not voting: None.

Total 0

Excused: Keane, Squires, Windy Boy.

Total 3

HB 545 - Senator Esp moved **HB 545** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

Excused: Keane, Squires, Windy Boy.
Total 3

HJR 27 - Senator T. Brown moved **HJR 27** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 43

Nays: Brenden, Hinkle, Jackson, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

SB 100 - Senator Black moved **SB 100** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 39

Nays: Erickson, Jent, Juneau, Kaufmann, Moss, Stewart-Peregoy, J. Tropila, M. Tropila.
Total 8

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Schmidt moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 40, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley,

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

SB 54, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

SB 88, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

SB 170, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley,

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 37 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 43

Nays: Balyeat, Brenden, Hinkle, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 48 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Balyeat, Esp, Hinkle, Jackson, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 119 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried,

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

Williams, Zinke, Mr. President.
Total 39

Nays: Balyeat, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Shockley, Stewart-Peregoy.
Total 8

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 204 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 45

Nays: Hinkle, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 223 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.
Total 37

Nays: Balyeat, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Steinbeisser, Mr. President.
Total 10

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 283 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley,

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

HB 304 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Keane, Squires, Windy Boy.
Total 3

MESSAGES FROM THE OTHER HOUSE

SB 74 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on **SB 74**:

3/17/2009

Representative Sands, Vice Chair
Representative Pomnichowski
Representative Ingraham
Representative Arntzen

UNFINISHED BUSINESS

Senator Essmann moved to add Senator Windy Boy as a sponsor to **SB 342**. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, March 18, 2009. Motion carried.

SENATE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2009

Senate adjourned at 2:33 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTIETH LEGISLATIVE DAY**

Helena, Montana
March 18, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Squires, excused. Quorum present.

BILLS AND JOURNALS:

3/18/2009

Correctly printed: **SB 100, SB 495, HB 21, HB 45, HB 67, HB 106, HB 129, HB 214, HB 230, HB 243, HB 263, HB 264, HB 270, HB 307, HB 324, HB 326, HB 332, HB 363, HB 366, HB 372, HB 387, HB 432, HB 513, HB 545, HJR 7, HJR 27, SR 15, SR 16, SR 17.**

Correctly engrossed: **SB 260, SB 418, SB 467, HB 55, HB 133, HB 150.**

Correctly enrolled: **SB 40, SB 54, SB 88, SB 170, SB 438, HB 55, HB 133, HB 150.**

Signed by the Speaker at 1:00 p.m., March 18, 2009: **SB 77, SB 150, SB 219, SJR 5, SJR 6, SJR, 16.**

Signed by the President at 4:30 p.m., March 17, 2009: **SB 77, SB 150, SB 219, SJR 5, SJR 6, SJR, 16.**

Signed by the Secretary of the Senate at 3:40 p.m., March 17, 2009: **SB 77, SB 150, SB 219, SJR 5, SJR 6, SJR, 16.**

Examined by the sponsor and found to be correct: **SB 77, SB 150, SJR 5, SJR 6, SJR 16.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

3/18/2009

HB 418, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

3/18/2009

SB 498, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Following: "WELLS;"

Insert: "REQUIRING THE BOARD TO SOLICIT AND CONSIDER COMMENTS FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY PRIOR TO ISSUING AN INJECTION PERMIT AND PRIOR TO ISSUING A CERTIFICATE OF COMPLETION; REQUIRING THE BOARD TO SOLICIT AND CONSIDER COMMENTS FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY PRIOR TO TRANSFERRING LIABILITY TO THE STATE; REQUIRING TESTING AFTER ISSUANCE OF A CERTIFICATE OF COMPLETION AND PRIOR TO TRANSFER OF LIABILITY;"

2. Title, page 1, line 11.

Following: "RESERVOIRS;"

Insert: "EXEMPTING A CARBON DIOXIDE INJECTION WELL FROM GROUND WATER PERMIT REQUIREMENTS;"

Following: "70-30-105,"

Insert: "75-5-103, 75-5-401, 77-3-430,"

3. Page 1, line 17 through line 23.

Strike: section 1 in its entirety

Renumber: subsequent sections

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

4. Page 2, line 7.

Strike: "or"

5. Page 2, line 9.

Following: "project"

Insert: "; (c) change or alter common law or statutory provisions regarding the ownership of surface or subsurface rights; or

(d) diminish, impair, or in any way affect the rights of a natural gas public utility, as defined in 82-10-301, to own, operate, or control a gas storage reservoir in use prior to [the effective date of this section]"

6. Page 2, line 14.

Strike: "prior" through "completion,"

Following: the second "to"

Insert: "indefinitely"

7. Page 2, line 15.

Strike: "[section 5(4)(f)]"

Insert: "[section 4(9)(a)]"

Following: "operator."

Insert: "If a geologic storage operator is required to maintain liability pursuant to [section 4(9)(b)], the board may not remit the fee."

8. Page 2, line 21 through line 22.

Following: "managing"

Strike: "a"

Strike: "reservoir" on line 21 through "[section 5(5)]" on line 22

Insert: "reservoirs pursuant to [section 4(6) and (8)]"

9. Page 2, line 24.

Strike: "[section 5]"

Insert: "[section 4]"

10. Page 2, line 30.

Following: "issued"

Insert: "pursuant to [section 4(1)]"

11. Page 3, line 1.

Strike: "[section 5(5)]" through "[section 5(4)(f)]"

Insert: "[section 4(7)]"

12. Page 3, line 7 through page 4, line 13.

Strike: section 5 in its entirety

Insert: "NEW SECTION. **Section 4. Certificate of completion -- department of environmental quality participation -- transfer of liability.** (1) Pursuant to subsection (3), after carbon dioxide injections into a reservoir end and upon completion of the certification requirements pursuant to subsections (4) and (5), the board shall issue the geologic storage operator a certificate of project completion.

(2) The board may adopt rules pursuant to 82-11-111 necessary for implementing subsection (4), including:

(a) rules for public notice and hearing; and

(b) any other rules necessary for administration of this section.

(3) The certificate may not be issued until at least 10 years after carbon dioxide injections end.

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

- (4) Subject to subsection (5), the certificate may be issued only if the geologic storage operator:
- (a) is in full compliance with regulations governing the geologic storage reservoir pursuant to this part;
 - (b) shows that the geologic storage reservoir is reasonably expected to retain the carbon dioxide stored in it;
 - (c) shows that all wells, equipment, and facilities to be used in the postclosure period are in good condition and retain mechanical integrity;
 - (d) shows that it has plugged wells, removed equipment and facilities, and completed reclamation work as required by the board;
 - (e) shows that the carbon dioxide in the geologic storage reservoir has become stable, which means that it is essentially stationary or chemically combined or, if it is migrating or may migrate, that any migration will be unlikely to cross the geologic storage reservoir boundary; and
 - (f) shows that the geologic storage operator will continue to provide adequate bond or other surety after receiving the certificate of completion for at least 10 years following issuance of the certificate of completion and that the operator continues to accept liability for the geologic storage reservoir and the stored carbon dioxide.
- (5)(a) Prior to issuing a certificate of completion, the board shall solicit, document, consider, and address comments from the department of environmental quality.
- (b) Notwithstanding subsection (5)(a), the board makes the final decision on issuance of the certificate.
- (6) After issuing a certificate of completion, the board, in conjunction with the operator, shall monitor the wells and reservoir, verifying compliance with subsection (4), for a period of 10 years.
- (7)(a) Following the monitoring and verification required in subsection (6) and subject to subsections (7)(b) and (7)(c), the geologic storage operator may transfer title to the geologic storage reservoir and to the stored carbon dioxide to the state.
- (b) Prior to a transfer of title, the monitoring pursuant to subsection (6) must show, to the satisfaction of the board, that:
- (i) the reservoir and wells are in full compliance with regulations pursuant to this part; and
 - (ii) the reservoir is reasonably expected to maintain its structural integrity and will not allow carbon dioxide to move out of one stratum into another or pollute drinking water supplies.
- (c)(i) Prior to a transfer of title, the board shall solicit, document, consider, and address comments from the department of environmental quality.
- (ii) Notwithstanding subsection (7)(c)(i), the board makes the final decision on the transfer of title.
- (8) If liability is transferred pursuant to subsection (7):
- (a) title is transferred, without payment or any compensation, to the state;
 - (b) title acquired by the state includes all rights and interests in and all responsibilities associated with the stored carbon dioxide;
 - (c) the geologic storage operator and all persons who generated any injected carbon dioxide are released from all regulatory requirements and liability associated with the geologic storage reservoir;
 - (d) any bonds or other surety posted by the geologic storage operator must be released; and
 - (e) monitoring and managing the geologic storage reservoir is the state's responsibility to be overseen by the board until the federal government assumes responsibility for the long-term monitoring and management of geologic storage reservoirs.
- (9)(a) If the operator does not transfer title to the state pursuant to subsection (7), the operator indefinitely accepts liability, except as provided in subsection (10), for the stored carbon dioxide and the geologic storage reservoir.
- (b) If the operator is found not to be in compliance with subsection (7)(b), the operator retains liability until the operator is able to meet the requirements.
- (10) After receiving a certificate of completion, every 10 years after completing the monitoring and verification required by subsection (6), an operator may petition the board and request to transfer liability to the state and be released from liability pursuant to subsection (7). An operator who petitions the board pursuant to this subsection (10) may not request that the fee required by [section 2(1)] be remitted."

Renumber: subsequent subsections

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

13. Page 5.

Following: line 24

Insert: "Section 8. Section 75-5-103, MCA, is amended to read:

"75-5-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of environmental review provided for in 2-15-3502.
- (2) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.
- (3) "Council" means the water pollution control advisory council provided for in 2-15-2107.
- (4) (a) "Currently available data" means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.
(b) The term does not mean new data to be obtained as a result of department efforts.
- (5) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).
- (6) "Department" means the department of environmental quality provided for in 2-15-3501.
- (7) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.
- (8) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.
- (9) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether or not those uses are included in the water quality standards.
- (10) "High-quality waters" means all state waters, except:
 - (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the board's classification rules; and
 - (b) surface waters that:
 - (i) are not capable of supporting any one of the designated uses for their classification; or
 - (ii) have zero flow or surface expression for more than 270 days during most years.
- (11) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.
- (12) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.
- (13) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality waters.
- (14) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.
- (15) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.
- (16) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.
- (17) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.
- (18) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the board.

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

(19) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(20) "Outstanding resource waters" means:

(a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or

(b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and approved by the legislature.

(21) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point source.

(22) "Parameter" means a physical, biological, or chemical property of state water when a value of that property affects the quality of the state water.

(23) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

(24) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

(25) (a) "Pollution" means:

(i) contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor; or

(ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) A discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter. Activities conducted under the conditions imposed by the department in short-term authorizations pursuant to 75-5-308 are not considered pollution under this chapter.

(c) Contamination of ground water within a geologic storage reservoir, as defined in 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11, part 1, is not pollution and does not require a mixing zone.

(26) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

(27) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

(28) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(29) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

(i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

(30) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards.

(31) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

(32) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

(33) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

(34) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

(35) "Water quality protection practices" means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

(36) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

(37) "Watershed advisory group" means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704."

Insert: "Section 9. Section 75-5-401, MCA, is amended to read:

"75-5-401. Board rules for permits -- ground water exclusions. (1) Except as provided in subsection (5), the board shall adopt rules:

(a) governing application for permits to discharge sewage, industrial wastes, or other wastes into state waters, including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems;

(b) governing the issuance, denial, modification, or revocation of permits. The board may not require a permit for a water conveyance structure or for a natural spring if the water discharged to state waters does not contain industrial waste, sewage, or other wastes. Discharge to surface water of ground water that is not altered from its ambient quality does not constitute a discharge requiring a permit under this part if:

(i) the discharge does not contain industrial waste, sewage, or other wastes;

(ii) the water discharged does not cause the receiving waters to exceed applicable standards for any parameters; and

(iii) to the extent that the receiving waters in their ambient state exceed standards for any parameters, the discharge does not increase the concentration of the parameters.

(c) governing authorization to discharge under a general permit for storm water associated with construction activity. These rules must allow an owner or operator to notify the department of the intent to be covered under the general permit. This notice of intent must include a signed pollution prevention plan that requires the applicant to implement best management practices in accordance with the general permit. The rules must authorize the owner or operator to discharge under the general permit on receipt of the notice and plan by the department.

(2) The rules must allow the issuance or continuance of a permit only if the department finds that operation consistent with the limitations of the permit will not result in pollution of any state waters, except that the rules may allow the issuance of a temporary permit under which pollution may result if the department ensures that the permit contains a compliance schedule designed to meet all applicable effluent standards and water quality standards in the shortest reasonable period of time.

(3) The rules must provide that the department may revoke a permit if the department finds that the holder of the permit has violated its terms, unless the department also finds that the violation was accidental and unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was reasonably possible.

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

(4) The board may adopt rules governing reclamation of sites disturbed by construction, modification, or operation of permitted activities for which a bond is voluntarily filed by a permittee pursuant to 75-5-405, including rules for the establishment of criteria and procedures governing release of the bond or other surety and release of portions of a bond or other surety.

(5) Discharges of sewage, industrial wastes, or other wastes into state ground waters from the following activities or operations are not subject to the ground water permit requirements adopted under subsections (1) through (4):

- (a) discharges or activities at wells injecting fluids associated with oil and gas exploration and production regulated under the federal underground injection control program;
- (b) disposal by solid waste management systems licensed pursuant to 75-10-221;
- (c) individuals disposing of their own normal household wastes on their own property;
- (d) hazardous waste management facilities permitted pursuant to 75-10-406;
- (e) water injection wells, reserve pits, and produced water pits used in oil and gas field operations and approved pursuant to Title 82, chapter 11;
- (f) agricultural irrigation facilities;
- (g) storm water disposal or storm water detention facilities;
- (h) subsurface disposal systems for sanitary wastes serving individual residences;
- (i) in situ mining of uranium facilities controlled under Title 82, chapter 4, part 2;
- (j) mining operations subject to operating permits or exploration licenses in compliance with The Strip and Underground Mine Reclamation Act, Title 82, chapter 4, part 2, or the metal mine reclamation laws, Title 82, chapter 4, part 3; ~~or~~

(k) projects reviewed under the provisions of the Montana Major Facility Siting Act, Title 75, chapter 20-~~2~~
or

(l) a carbon dioxide injection well for which a permit has been issued pursuant to Title 82, chapter 11, part 1.

(6) Notwithstanding the provisions of 75-5-301(4), mixing zones for activities excluded from permit requirements under subsection (5) of this section must be established by the permitting agency for those activities in accordance with 75-5-301(4)(a) through (4)(c).

(7) Notwithstanding the exclusions set forth in subsection (5), any excluded source that the department determines may be causing or is likely to cause violations of ground water quality standards may be required to submit monitoring information pursuant to 75-5-602.

(8) The board may adopt rules identifying other activities or operations from which a discharge of sewage, industrial wastes, or other wastes into state ground waters is not subject to the ground water permit requirements adopted under subsections (1) through (4).

(9) The board may adopt rules authorizing general permits for categories of point source discharges. The rules may authorize discharge upon issuance of an individual authorization by the department or upon receipt of a notice of intent to be covered under the general permit."

"Section 10. Section 77-3-430, MCA, is amended to read:

"77-3-430. Pooling agreements and unit operations. Nothing contained in this or in prior related laws prevents the board from entering into agreements for the pooling of acreage with others for unit operations for the storage of carbon dioxide in a geologic storage reservoir or the production of oil or gas or both and the apportionment of oil or gas royalties or both on an acreage or other equitable basis and from modifying leases with respect to delay rentals, delay drilling penalties, and royalties in accordance with ~~such~~ pooling agreements and ~~such~~ unit plans of operation. However, ~~such~~ agreements may not change the percentage of royalties ~~to be~~ paid to the state from the percentages ~~as~~ fixed in its leases. The board may modify existing pooling and unit agreements ~~so as~~ to commit the state lands included ~~therein~~ in the pooling or unit agreements for as long as the unitized substance or substances for which the state lands are committed ~~is~~ are produced from any lands in the unit."

Renumber: subsequent sections

14. Page 10, line 7.

Strike: "The"

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Insert: "Subject to subsection (7), the"

15. Page 10, line 23.

Strike: "[section 3]"

Insert: "[section 2]"

16. Page 10, line 30.

Following: "(7)"

Insert: "(a)"

Strike: "may"

Insert: "shall"

17. Page 11, line 1.

Following: "solicit"

Insert: ", document, consider, and address"

18. Page 11.

Following: line 1

Insert: "(b) Notwithstanding subsection (7)(a), the board makes the final decision on issuance of a permit."

19. Page 12, line 20.

Strike: "[section 5(5)]"

Insert: "[section 4(7)]"

20. Page 14, line 21.

Strike: "[section 5]"

Insert: "[section 4]"

21. Page 14, line 22.

Strike: "[section 3]"

Insert: "[section 2]"

22. Page 19, line 3.

Strike: "[section 5(5)]"

Insert: "[section 4(7)]"

23. Page 19, line 13.

Strike: "7"

Insert: "6"

24. Page 19, line 15.

Strike: "7"

Insert: "6"

25. Page 19, line 27.

Strike: "3"

Insert: "2"

Strike: "23"

Insert: "25"

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

26. Page 19, line 30.

Strike: ", 2,"

Strike: "24"

Insert: "26"

Strike: "27"

Insert: "29"

And, as amended, do pass. Report adopted.

HJR 1, be concurred in. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

3/17/2009

SB 22, introduced bill, be amended as follows:

1. Page 1, line 24.

Following: "MUST"

Strike: "HOLD A WATER RIGHT IN MONTANA AND"

And, as amended, do pass. Report adopted.

SB 263, introduced bill, be amended as follows:

1. Title, line 4 through line 5.

Following: "~~GOVERNING~~" on line 4

Strike: remainder of line 4 through "BY" on line 5

Insert: "REVISING LAWS GOVERNING"

2. Title, line 8.

Strike: "REQUIRING PUBLIC DEFENDER COSTS TO BE INCLUDED IN A CRIMINAL JUDGMENT;"

Insert: "REQUIRING ASSIGNED COUNSEL TO FILE CERTAIN COSTS WITH THE DISTRICT COURT;"

3. Page 1, line 19 through line 20.

Following: "~~costs~~" on line 19

Strike: remainder of line 19 through "JUDGMENT" on line 20

Insert: "costs to be filed with district court"

4. Page 1, line 24.

Following: "proceeding"

Insert: "."

Strike: ", as"

5. Page 1, line 25 through line 26.

Following: "~~47-1-104(5)-~~" on line 25

Strike: remainder of line 25 through "ATTORNEY." on line 26

Insert: "If the criminal proceeding is in the district court, counsel assigned by the office of state public defender shall file with the district court a statement of the hours spent on the case and the costs and expenses incurred."

6. Page 2, line 5 through line 10.

Strike: subsection (5) in its entirety

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

And, as amended, do pass. Report adopted.

SB 343, introduced bill, be amended as follows:

1. Page 1, line 18.

Following: "wreak"

Strike: "catastrophic"

2. Page 2, line 20.

Following: "wreak"

Strike: "catastrophic"

3. Page 3, line 24.

Strike: "AN"

Insert: "a nonnative,"

4. Page 3, line 25.

Following: "cause"

Strike: "catastrophic"

5. Page 4, line 17.

Following: "individually,"

Strike: "may"

Insert: "shall"

Following: "other or"

Insert: "may enter into an agreement with"

6. Page 4, line 23.

Insert: "(4) The overall coordinating authority is the department of agriculture."

7. Page 4, line 30.

Following: "collectively,"

Strike: "may"

Insert: "shall develop and"

8. Page 7, line 8.

Following: "Departments"

Strike: "may"

Insert: "shall"

Following: "establish"

Insert: "a"

Strike: "stations"

Insert: "station"

And, as amended, do pass. Report adopted.

SB 350, do pass. Report adopted.

SB 402, introduced bill, be amended as follows:

1. Title, lines 7 and 8.

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Following: "DATE" on line 7

Strike: remainder of line 7 through "DATE" on line 8

2. Page 2, line 1.

Strike: subsection (h) in its entirety

Renumber: subsequent subsections

3. Page 2, line 19.

Following: line 18

Insert: "(4) (a) This section does not affect the:

(i) enforcement of the terms of a license, permit, or authorization;

(ii) power or authority of a county, city, or town to lawfully enact valid zoning, subdivision, or other land use regulations or ordinances that are required by law or that are necessary to protect the public health, safety, or welfare.

(b) Compensation may not be claimed under subsection (2) for actions taken pursuant to subsection (4)(a)."

4. Page 2, line 26 through line 28.

Strike: section 4 in its entirety

And, as amended, do pass. Report adopted.

SB 429, introduced bill, be amended as follows:

1. Page 1, line 19.

Insert: "(3) The department of administration shall make these transfers by July 15, 2009."

And, as amended, do pass. Report adopted.

SB 500, introduced bill, be amended as follows:

1. Page 1, line 12 through line 15.

Following: "DA 08-0506" on line 12

Strike: ":" on line 12 through "5%" on line 15

Insert: ", 100%"

And, as amended, do pass. Report adopted.

FISH AND GAME (Barkus, Chairman):

3/18/2009

HB 221, be amended as follows:

1. Page 3, line 3 through line 4.

Strike: subsection (6) in its entirety

Insert: "(6) Prior to reaching 12 years of age, minors who will reach 12 years of age by the last day of any regularly scheduled hunting season may hunt any game species after August 15 of the license year as long as the minor obtains the necessary license pursuant to this chapter."

2. Page 4, line 25 through line 26.

Strike: subsection (5) in its entirety

Insert: "(5) Prior to reaching 12 years of age, minors who will reach 12 years of age by the last day of any regularly scheduled hunting season may hunt any game species after August 15 of the license year as long as the minor

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

obtains the necessary license pursuant to this chapter."

And, as amended, be concurred in. Report adopted.

HB 222, be amended as follows:

1. Title, page 1, line 7.

Strike: "SECTION"

Insert: "SECTIONS 87-1-102 AND"

2. Page 1, line 11.

Following: line 10

Insert: "Section 1. Section 87-1-102, MCA, is amended to read:

"87-1-102. Penalties -- violation of state law. (1) (a) A person who purposely, knowingly, or negligently violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined an amount not less than \$50 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court.

(b) (i) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(ii) After a forfeiture period imposed pursuant to this section and upon receipt of notification from the court that the defendant has appeared and all terms of the court sentence, including making payment of any fine, costs, or restitution, have been met or the defendant is in compliance with installment payments specified by the court, the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the person is in default on any installment payment.

(iii) A person convicted of hunting, fishing, or trapping while the person's license or privilege is forfeited shall be imprisoned in the county detention center for not less than 5 days or more than 6 months and may be fined an amount not less than \$500 or more than \$2,000.

(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

(b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

(c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount not less than \$200 or more than \$600 or imprisoned in the county detention center for not more than 60 days, or both.

(d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of any

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and any pelts possessed unlawfully must be confiscated. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

~~———— (c) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or a privilege is denied shall be imprisoned in the county detention center for not less than 5 days or more than 6 months. In addition, that person may be fined an amount not less than \$500 or more than \$2,000.~~

(3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the use of spotlights, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a department-sponsored hunter education course.

(4) A person convicted or who has forfeited bond or bail under this section and whose license privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when license privileges have been forfeited shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) A person convicted or who has forfeited bond or bail under this section and who has been ordered to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county detention center for not more than 60 days, or both.

(6) (a) A person convicted of a second offense of any of the following offenses within 10 years of the first conviction or who is convicted of two or more of the following offenses at different times within a 10-year period is subject to the penalties provided in subsection (6)(b):

- (i) hunting during a closed season;
- (ii) spotlighting;
- (iii) hunting without a license;
- (iv) unlawful taking of more than double the legal bag limit;
- (v) unlawful possession of more than double the legal bag limit; and
- (vi) waste of game by abandonment in the field.

(b) ~~(i)~~ A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection (6)(a) shall be fined an amount not less than \$2,000 or more than \$5,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period.

~~(ii) The department shall notify the offender of the loss of privileges.~~

~~———— (iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.~~

(7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (7)(b):

- (i) hunting during a closed season;
- (ii) spotlighting;

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

(iii) hunting without a license; and

(iv) unlawful taking of more than double the legal bag limit.

(b) ~~(i)~~ A person convicted of the offenses in subsection (7)(a) in the time period specified in subsection (7)(a) shall be fined an amount not less than \$5,000 or more than \$10,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for life.

~~(ii) The department shall notify the offender of the loss of privileges.~~

~~(iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.~~

(8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this section to pay the costs of imprisonment under this section.

(9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap upon conviction or forfeiture of bond or bail for a violation of this title.

(10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

(11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

(12) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the same meaning as provided in 45-2-101."

Renumber: subsequent sections

3. Page 2, line 10.

Following: "met"

Insert: "or the person is in compliance with installment payments specified by the court "

Following: "effect"

Insert: "pursuant to 87-1-102(1)"

4. Page 4, line 2.

Following: "met"

Insert: "or the person is in compliance with installment payments specified by the court "

Following: "effect"

Insert: "pursuant to 87-1-102(1)"

And, as amended, be concurred in. Report adopted.

HB 317, be amended as follows:

1. Title, page 1, line 5.

Following: "LICENSE"

Insert: "OR PERMIT ISSUED BY DRAWING"

Strike: "TO A COMBAT ZONE"

Insert: "OUTSIDE OF THE CONTINENTAL UNITED STATES IN SUPPORT OF A CONTINGENCY OPERATION"

2. Title, page 1, line 6.

Following: "LICENSE"

Insert: "OR PERMIT"

3. Title, page 1, line 7.

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Following: "LICENSE"

Insert: "OR PERMIT"

4. Title, page 1, line 8.

Strike: "SECTIONS" through "87-2-702,"

Insert: "SECTION 87-2-803,"

5. Page 1, line 12 through page 4, line 5.

Strike: everything after the enacting clause

Insert: "Section 1. Section 87-2-803, MCA, is amended to read:

"87-2-803. Persons with disabilities -- service members -- definitions. (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection (9).

(4) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection (4) as a permitholder, may hunt by shooting a firearm from:

(i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a state or federal highway;

(ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted; or

(iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle or snowmobile is marked as described in subsection (4)(d) of this section.

(b) This subsection (4) does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner.

(c) A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal.

(d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) A veteran who meets the qualifications in subsection (9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of each license type must be made available annually. Licenses issued to veterans under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses, in the manner provided in subsection (2) of this section, and must be accompanied by a companion, as provided in subsection (4)(c) of this section.

(7) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(9) A person is entitled to a permit to hunt from a vehicle if the person:

(a) is certified by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

(b) is an amputee above the wrist or ankle; or

(c) is certified by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

(10) Certification by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant under subsection (9) must be on a form provided by the department.

(11) The department or a person who disagrees with a determination of disability or eligibility for a permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203.

(12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a bear license, upon payment of the resident hunting access enhancement fee provided for in 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election. A member who participated in a contingency operation after September 11, 2001, that required the member to serve at least 2 months outside of the state may make an election in 2007 or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election and be entitled to a free resident wildlife conservation license or a free Class AAA resident combination sports license in the year of election and in any of the 4 years after the member's election.

(b) To be eligible for the free resident wildlife conservation license or free Class AAA resident combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

(c) A Montana resident who meets the service qualifications of subsection (12)(a) and the documentation required in subsection (12)(b) is entitled to a free Class A resident fishing license in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.

(d) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for costs associated with the free licenses granted pursuant to this subsection (12) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.

(13) A member of the armed forces who forfeited a license or permit issued through a drawing as a result of deployment outside of the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year of the

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

member's return from deployment or in the first year that the license or permit is made available after the member's return."

And, as amended, be concurred in. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Zinke in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator J. Peterson moved consideration of **SB 114** and **SB 435** be passed for the day. Motion carried.

SB 452 - Senator Curtiss moved **SB 452** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Branae, Cooney, Erickson, Gillan, Hansen, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires excused at this time.

SB 47 - House Amendments - Senator Steinbeisser moved House amendments to **SB 47** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Excused: Squires.
Total 1

SB 48 - House Amendments - Senator Essmann moved House amendments to **SB 48 not be concurred in**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

SB 49 - House Amendments - Senator Wanzenried moved House amendments to **SB 49** be concurred in. Motion carried as follows:

Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 41 - Senator Wanzenried moved **HB 41** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Balyeat, Brenden, R. Brown, Hinkle, Jackson, McGee, Ripley, Shockley, Steinbeisser.
Total 9

Absent or not voting: None.

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Total 0

Excused: Squires.

Total 1

HB 72 - Senator Juneau moved **HB 72** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 75 - Senator Keane moved **HB 75** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 27

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Shockley, Tutvedt, Zinke, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 78 - Senator Hinkle moved **HB 78** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Erickson, Gallus, Juneau, Kaufmann, Larsen, Schmidt, Wanzenried, Williams.

Total 8

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 93 - Senator Murphy moved **HB 93** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 139 - Senator Curtiss moved **HB 139** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Cooney, Erickson, Juneau, Kaufmann, Moss.
Total 5

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

HB 153 - Senator M. Tropila moved **HB 153** be concurred in. Motion carried as follows:

Yeas: Bales, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Balyeat, Barkus, Barrett, Black, Brenden, Esp, Gebhardt, Hinkle, McGee, Ripley, Shockley.
Total 11

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Squires present.

HB 402 - Senator Gebhardt moved **HB 402** be concurred in.

HB 402 - Senator J. Peterson made a **substitute motion** that consideration of **HB 402** be passed for the day.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Laible, Laslovich, Lewis, McGee, Perry, Peterson, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 36

Nays: Cooney, Erickson, Gallus, Hamlett, Juneau, Keane, Larsen, Moss, Murphy, Ripley, Squires, J. Tropila, M. Tropila, Windy Boy.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Squires excused at this time.

HJR 22 - Senator Williams moved **HJR 22** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Squires.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

MOTIONS

Senator Peterson moved to suspend the rules and to place **HJ 22** on third reading this day. Motion carried.

Senator Peterson moved to place **HJ 22** on third reading this day. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 100 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Erickson, Juneau, Kaufmann, Moss, Stewart-Peregoy, M. Tropila.

Total 6

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 45 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 67 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 129 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Brenden, Curtiss, Hinkle, McGee, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 270 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 324 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 332 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Barkus, R. Brown, Juneau.

Total 3

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 363 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 366 concurred in as follows:

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Erickson, Hansen, Hawks, Juneau, Kaufmann, Stewart-Peregoy, Williams.

Total 7

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 432 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Cooney, Essmann, Larsen, Laslovich, Tutvedt, Wanzenried.

Total 6

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HB 545 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HJR 27 concurred in as follows:

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Yeas: Bales, Balyeat, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Barkus, Black, Brenden, Esp, Hinkle, Jackson, McGee.

Total 7

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

HJR 22 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

SPECIAL ORDERS OF THE DAY

Sen. Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolutions No.8, and that they ayes and nays be spread upon the journal. Motion **failed** as follows:

Yeas: Bales, Barrett, Branae, Brenden, T. Brown, Cooney, Esp, Gillan, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Steinbeisser, M. Tropila, Wanzenried, Williams, Mr. President.

Total 24

Nays: Balyeat, Barkus, Black, R. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke.

Total 25

Absent or not voting: None.

Total 0

SENATE JOURNAL
SIXTIETH LEGISLATIVE DAY - MARCH 18, 2009

Excused: Squires.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, March 19, 2009. Motion carried.

Senate adjourned at 2:36 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-FIRST LEGISLATIVE DAY**

Helena, Montana
March 19, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

3/18/2009

Correctly printed: **SB 350, SB 452, HB 41, HB 72, HB 75, HB 78, HB 93, HB 139, HB 153, HB 418, HJR 1.**

Correctly engrossed: **SB 22, SB 263, SB 343, SB 402, SB 429, SB 498, SB 500, HB 221, HB 222, HB 317.**

Delivered to the Governor for approval at 10:51 a.m., March 19, 2009: **SB 77, SB 150, SB 219.**

Delivered to the Secretary of State at 3:56 p.m., March 18, 2009: **SJR 5, SJR 6, SJR 16.**

Examined by the sponsor and found to be correct: **SB 40, SB 54, SB 88, SB 170, SB 438.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the forty-sixth, forty-seventh, forty-eighth, forty-ninth, and fiftieth legislative days, find the same to be correct.

Senator Curtiss, Chair

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/18/2009

HB 15, introduced by Villa

HB 211, introduced by Welborn

HB 262, introduced by Ebinger

HB 315, introduced by Blewett

HB 356, introduced by Wagner

HB 499, introduced by French

HB 585, introduced by McClafferty

HB 635, introduced by McChesney

HB 636, introduced by Dickenson

House joint resolution passed and transmitted to the Senate for concurrence:

3/18/2009

HJR 33, introduced by Bergren

Senate amendments to House bills concurred in:

3/18/2009

HB 244, introduced by Ankney

HB 308, introduced by Augare

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

3/19/2009

HB 195, be amended as follows:

1. Page 3, line 15.

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Following: "(6)"

Insert: "(a)"

2. Page 3, line 16.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

3. Page 3, line 25.

Following: "11 p.m."

Insert: "The provisions of this subsection (6)(a)(iv) and subsection (6)(b) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of [the effective date of this act] or to subsequent renewals of that license."

4. Page 3.

Following: line 25

Insert: "(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant."

5. Page 3, line 26.

Strike: "(i) Subject to" through "(7)(a)(ii), a"

Insert: "A"

6. Page 3, line 27 through page 4, line 1.

Strike: "if there" on page 3, line 27 through "new" on page 4, line 1

Insert: "only after 1 year of use by the original"

7. Page 5, line 12.

Strike: "Any"

Insert: "A preference must be given to an"

Following: "who"

Insert: "does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who"

Strike: "in a quota area, AS PRESCRIBED IN 16-4-105,"

Insert: "that is in the quota area described in subsection (8) in which the license has become available and "

8. Page 5, line 13 through line 14.

Following: "application"

Strike: "must be given a" on line 13 through "preference" on line 14

9. Page 5, line 15.

Strike: "for a newly available" through "license"

10. Page 5.

Following: line 22

Insert: "(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery."

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

11. Page 6.

Following: line 15

Insert: "NEW SECTION. **Section 2. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 291, be amended as follows:

1. Title, page 1, line 4.

Strike: "PROVIDING THAT AVERAGE PREVAILING"

Insert: "REDEFINING THE"

2. Title, page 1, line 5.

Strike: "RATHER THAN LOWEST PREVAILING MARKET PRICE"

Insert: "THAT"

3. Page 2, line 4.

Strike: "prevailing"

4. Page 2, line 9.

Strike: "Prevailing market"

Insert: "Market"

Following: "price."

Insert: "(1)"

5. Page 2, line 10.

Strike: "prevailing"

Following: "means the"

Insert: ":

(a) price agreed upon between the insurer and the business; or"

Strike: "average" through "area"

Insert: "(b) prevailing competitive rate that is reasonable and necessary in the local area where the repairs are to be performed"

6. Page 2.

Following: line 10

Insert: "(2)"

7. Page 2, line 11.

Strike: "prevailing"

8. Page 2, line 22.

Strike: "prevailing"

9. Page 3, line 23.

Strike: "prevailing competitive"

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

10. Page 4, line 16.

Strike: "prevailing"

And, as amended, be concurred in. Report adopted.

HB 354, be amended as follows:

1. Title, page 1, line 8.

Strike: "EXEMPTING CERTAIN FORENSIC PRACTICES"

Insert: "PROVIDING CERTAIN EXEMPTIONS"

2. Page 6, line 2.

Strike: "or"

3. Page 6, line 4.

Following: "employed"

Insert: "; or

(n) a person who evaluates and advises management on personnel and human resource issues in the workplace"

And, as amended, be concurred in. Report adopted.

HB 357, be concurred in. Report adopted.

HB 386, be amended as follows:

1. Page 1, line 23.

Following: "arrangements"

Insert: "-- disposition directions -- definition"

2. Page 1, line 25.

Following: "part 4,"

Insert: "or by providing disposition directions"

3. Page 1, line 27.

Strike: "disposition directions and"

4. Page 1, line 28.

Following: "mortuary"

Insert: "or the disposition directions"

5. Page 1, line 29.

Following: "contract"

Insert: "or the disposition directions"

6. Page 1, line 30.

Following: "contract"

Insert: "or the disposition directions"

7. Page 1.

Following: line 30

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Insert: "(3) As used in this section, the term "disposition directions" means:

(a) a video provided in a replayable format of the person who is the subject of the disposition directions in which the person describes the wishes for disposition and that is accompanied by a written attestation of the video accuracy by two witnesses who are at least 18 years of age; or

(b) a legible written instrument signed by the person who is the subject of the disposition directions and by two people who are at least 18 years of age who have witnessed the signing by the person. The written instrument may be but is not limited to a letter of instructions, a will, a trust document, or advance directives. A written instrument that does not name a person with the right to control the decedent's disposition must follow the priority of rights of disposition provided in [section 4]."

And, as amended, be concurred in. Report adopted.

HB 400, be concurred in. Report adopted.

HB 530, be concurred in. Report adopted.

HB 621, be concurred in. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

3/19/2009

SB 303, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "FLATHEAD,"

2. Page 1, line 28.

Following: "Yellowstone,"

Insert: "and"

Strike: ", and"

3. Page 1, line 29.

Strike: "Flathead"

4. Page 2, line 4.

Following: "effects of"

Strike: "climate change,"

Following: "drought"

Strike: ",""

5. Page 2, line 7.

Strike: ", instream flow requirements,"

6. Page 2, line 11.

Following: "council"

Insert: "in both the Yellowstone and Missouri River basins that is inclusive and representative of all water interests and interests in those basins. For the Clark Fork basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to 85-2-350."

7. Page 2, line 12.

Strike: "in each basin."

8. Page 2, line 13.

Strike: "EACH COUNCIL CONSISTS"

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Insert: "The councils in the Missouri and Yellowstone River basins consist"

9. Page 2, line 14.

Strike: "BASIN"

Insert: "basins"

10. Page 2, line 15 through line 16.

Strike: subsection (C) in its entirety

11. Page 2, line 17.

Strike: "(D)"

Insert: "(c)"

12. Page 2, line 18.

Strike: "(E)"

Insert: "(d)"

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

3/18/2009

HB 322, be concurred in. Report adopted.

HB 397, be amended as follows:

1. Title, line 6.

Following: "~~GRANDCHILD~~"

Strike: "RELATIVE'S"

Following: "CHILD"

Strike: "IS TO BE"

Insert: "THAT IS RELATED HAS BEEN"

2. Page 2, line 5.

Following: "~~to be~~"

Strike: "RELATIVE'S"

Following: "CHILD"

Insert: "that is related"

3. Page 2, line 11.

Following: "registry"

Insert: "and notify the relatives on the registry"

4. Page 2, line 12.

Strike: "this section"

Insert: "41-3-301"

And, as amended, be concurred in. Report adopted.

HB 407, be amended as follows:

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

1. Page 2, line 1.

Following: "travels"

Strike: "or attempts to travel any distance"

2. Page 2, line 5.

Following: "travel"

Strike: "or attempt to travel"

And, as amended, be concurred in. Report adopted.

HJR 14, be amended as follows:

1. Title, line 10.

Following: "GENERAL"

Insert: ", IF IT IS DETERMINED THAT THE ATTORNEY GENERAL HAS STANDING,"

2. Page 2, line 12.

Following: "General"

Insert: ", if the Attorney General determines that the Attorney General has standing,"

3. Page 2, line 15.

Strike: subsection (4) in its entirety

Renumber: subsequent subsection

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

3/18/2009

SB 502, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Strike: the second "AND"

2. Title, page 1, line 10.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 6.

Following: line 4

Insert: "NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval."

And, as amended, do pass. Report adopted.

HB 593, be amended as follows:

1. Title, page 1, line 5.

Strike: "AND TIMELINES"

2. Title, page 1, line 7.

Following: "REQUIREMENTS;"

Insert: "AMENDING SECTION 75-1-110, MCA;"

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

3. Page 1, line 22.

Strike: "time"

4. Page 1, line 24 through line 30.

Strike: ":" on line 24 through "as" on line 30

Insert: "in accordance with a schedule"

5. Page 2, line 1.

Strike: "for" through "material"

6. Page 2, line 3.

Following: "[section 7]"

Insert: "and subsection (2) of this section"

7. Page 2.

Following: line 5

Insert: "(2) (a) The requirements of subsection (1) may be waived when, after review of an application by a person undertaking a remedial action, the department finds that the remedial action plan complies with Title 75, chapters 2, 5, and 10, and applicable rules.

(b) The person conducting the remedial action shall reimburse the department for costs incurred by the department under this section.

(c) Reimbursements must be deposited in the environmental rehabilitation and response account provided for in 75-1-110."

Renumber: subsequent subsection

8. Page 3.

Following: line 12

Insert: "Section 8. Section 75-1-110, MCA, is amended to read:

"75-1-110. Environmental rehabilitation and response account. (1) There is an environmental rehabilitation and response account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) fine and penalty money received pursuant to 75-10-1223, 82-4-311, and 82-4-424 and other funds or contributions designated for deposit to the account;

(b) reimbursements received pursuant to [section 3];

~~(b)(c)~~ unclaimed or excess reclamation bond money received pursuant to 82-4-241, 82-4-311, 82-4-424, and 82-4-426; and

~~(c)(d)~~ interest earned on the account.

(3) Money in the account is available to the department of environmental quality by appropriation and must be used to pay for:

(a) reclamation and revegetation of land affected by mining activities, research pertaining to the reclamation and revegetation of land, and the rehabilitation of water affected by mining activities;

(b) reclamation and revegetation of unreclaimed mine lands for which the department may not require reclamation by, or obtain costs of reclamation from, a legally responsible party;

(c) remediation of sites containing hazardous wastes or hazardous substances for which the department may not recover costs from a legally responsible party; or

(d) response to an imminent threat of substantial harm to the environment, to public health, or to public safety for which no funding or insufficient funding is available pursuant to 75-1-1101.

(4) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account until spent or appropriated by the legislature."

Renumber: subsequent sections

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):
HB 365, be amended as follows:

3/19/2009

1. Page 3, line 2.
Strike: "33-31-202"
Insert: "33-31-201"

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):
SR 9, be adopted. Report adopted.
HB 146, be concurred in. Report adopted.
HB 193, be concurred in. Report adopted.
HB 197, be amended as follows:

3/19/2009

1. Page 2, line 1.
Following: "(3)"
Insert: "(a)"
Strike: "Recall"
Insert: "Except as provided in subsection (3)(b), recall"

2. Page 2, line 4.
Following: "appointed-"
Insert: "(b)"

3. Page 2, line 5 through line 6.
Following: "THEN" on line 5
Strike: "AT" on line 5 through "OF" on line 6
Insert: "the petition:

(i) must contain the signatures of qualified electors equaling at least 15% of the number of persons registered to vote at the preceding county general election; and
 (ii) must also contain"

4. Page 2, line 6.
Following: "SIGNATURES"
Strike: "MUST BE"
Following: "FROM"
Insert: "at least 15% of the"

And, as amended, be concurred in. Report adopted.

HB 622, be amended as follows:

1. Title, line 6.
Strike: "PLACED"
Insert: "REMAINING"

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

2. Title, line 7.

Following: "ACCOUNT"

Insert: "ESTABLISHED"

3. Page 2, line 7.

Strike: "placed"

Insert: "remaining"

Following: "~~contributions,~~"

Insert: "on [the effective date of this act]"

4. Page 2, line 15.

Following: "account"

Insert: "that was established"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 18, 2009

The Honorable Robert Story
President, Montana State Senate
Capitol Station
Helena, Montana 59620

Dear President Story:

Attached is a list of board and commission appointments requiring confirmation by the Montana State Senate. We have supplied the following information for each appointment:

Reference to statute and a brief description of the statute
Name, address, and phone number(s) for each appointee
Appointee qualifications and term of appointment
Brief biographies

Additional information, including a complete list of gubernatorial appointees, is available online at: <http://boards.mt.gov/>. Meanwhile, please don't hesitate to contact our office if my staff or I can be of assistance to you.

Sincerely yours,

BRIAN SCHWEITZER
Governor

HARD ROCK MINING IMPACT BOARD -- 2-15-1822, MONTANA CODE ANNOTATED

The board is designated as a quasi-judicial board (although an attorney-member is not required) and consists of five members. Three members must come from impact areas or areas expected to be impacted by large-scale mineral development and at least two persons must come from one of each district designated by statute. Further, members must include a representative of the hard-rock mining industry, a representative of a major financial institution, an elected school district trustee, an elected county commissioner and a member of the public.

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Edward M. Tinsley, 1236 9th Ave, Helena MT 59601 (Member)

Contact Phone(s): 406-443-7126

Appointment date: 3/12/2009; Term ends: January 1, 2013

Qualification: public representative and resident of District 2/impact area

Tinsley was a Lewis and Clark county commissioner and is currently the sergeant-at-arms for the Montana House of Representatives. He has a master's of public administration from the University of Montana. He's an Army veteran and a graduate of the Montana Law Enforcement Academy.

Mary Ellen Cremer, 189 Boulder Rd, Big Timber MT 59011 (Member)

Contact Phone(s): 406-932-5774, 406-932-4392

Appointment date: 3/12/2009; Term ends: January 1, 2013

Qualification: a representative of a major financial institution in Montana and resident of district 1/impact area

Cremer is a partner in a strategy consulting group, and a third generation majority stockholder in Citizens Bank & Trust Company, serving Sweet Grass, Wheatland and Golden Valley Counties. She is currently the bank board's vice chair.

Joe Michaletz, Geo-Lex LLC, PO Box 1226, Helena MT 59624 (Member)

Contact Phone(s): 406-449-8432,

Appointment date: 3/12/2009; Term ends: January 1, 2013

Qualification: a representative of the hard-rock mining industry, and resident of district 2/impact area

Michaletz is the owner of GeoLex, Inc., and has an education background in geology, geophysics, sedimentology and hydrology. He performs various proprietary investigations including structural and stratigraphic mapping for oil and gas interests, coal definition, mineral evaluations, geohydrologic analyses, water development, aerial photography interpretation and photogrammetry.

In addition, current member Marianne Roose was redesignated as the elected county commissioner representative.

BOARD OF HORSERACING -- 2-15-3106, MONTANA CODE ANNOTATED

The board consists of seven members, who serve staggered 3-year terms, and who must be citizens, residents, and qualified electors. Two board members must be in the horseracing industry and may not represent the same district. The other five members are appointed by district as defined in the statute, and may not be in the horseracing industry. A member of the board may not wager at any licensed racing meet in this state. The governor may not appoint any member who would have a conflict of interest during the member's term of appointment (with the exception of the industry representatives).

Mike Tatsey, 553 Birch Creek Rd, Valier MT 59486 (Member)

Contact Phone(s): 406-472-3398,

Appointment date: 3/6/2009; Term ends: January 20, 2012

Qualification: resident of district 3

Tatsey is a vo-ag instructor with the Browning Public Schools. He has a bachelor of science degree in agriculture education from Montana State University. Tatsey has been vice president of the Montana-Wyoming Indian Stockgrowers Association.

Carol Lambert, PO Box 2, Broadus MT 59317 (Member)

Contact Phone(s): 406-436-2001,

Appointment date: 3/6/2009; Term ends: January 20, 2012

Qualification: resident of district 1

Lambert served in the Montana Legislature from 2003-2008. She is a rancher and served as state president of Women Involved in Farm Economics. She has served on other boards including the Statewide Independent Living Council and the Public Employees Retirement Board.

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

BOARD OF HOUSING -- 2-15-1814, MONTANA CODE ANNOTATED

The board is designated as a quasi-judicial board and consists of seven members. The members shall be informed and experienced in housing, economics, or finance.

Audrey Black Eagle, PO Box 234, Lodge Grass MT 59050 (Member)

Contact Phone(s): 406-638-7131, 406-639-2381

Appointment date: 3/6/2009; Term ends: January 1, 2013

Qualification: public representative

Black Eagle is the executive director of the Apsaalooke' Nation Housing Authority. She's a former member of the Montana Association of School Business Officials and served on the Lodge Grass Board of Trustees, with two years as board chair. She's also been involved with the Community Housing Resource Board.

J.P. Crowley, 18 S Beattie St, Helena MT 59601 (Member)

Contact Phone(s): 406-449-9645

Appointment date: 3/6/2009; Term ends: January 1, 2013

Qualification: public representative

Crowley is a rental real estate manager, and has also worked as a benefits system analyst, financial and real estate analyst, art program director for Stanford University Hospital and field representative for Senator Max Baucus. He has a degree in political science from Montana State University, and was recently elected to the National Council of State Housing Boards.

Jeff Rupp, 32 South Tracy, Bozeman MT 59715 (Member)

Contact Phone(s): 406-587-4486, 406-586-1380

Appointment date: 3/6/2009; Term ends: January 1, 2013

Qualification: public representative

Rupp is the chief executive officer of the Human Resources Development Council. He has degrees in political science and history, and attended both Montana State University and Roosevelt University. Rupp has served on other statewide boards, including the State Workforce Investment Board, the Montana Community Foundation, the Midwest Assistance Program, Inc., as well as community boards.

Elizabeth Scanlin, PO Box 65, Red Lodge MT 59068 (Member)

Contact Phone(s): 406-446-1016, 406-446-1599

Appointment date: 3/6/2009; Term ends: January 1, 2013

Qualification: Attorney

Scanlin has served on the Red Lodge City Council and is currently Mayor of Red Lodge. She is active in the Carbon County Historical Society and the Red Lodge Festival of Nations. She has an English degree and a law degree from the University of Montana, and has also worked as a reporter for the Billings Gazette and Carbon County News.

BOARD OF LIVESTOCK -- 2-15-3102, MONTANA CODE ANNOTATED

The board consists of seven members who serve 6-year terms. They must be Montana residents and active livestock producers, and are appointed upon the recommendation of the related industry. Four members are cattle producers; one is a dairy producer representing the dairy and poultry industry; one is a swine producer; and one is a sheep producer. The governor designates the presiding officer. NOTE: Brett DeBruycker's interim appointment was confirmed in SR 7.

Janice French, HCR 81 Box 86, Hobson MT 59452 (Chair)

Contact Phone(s): 406-423-5304

Appointment date: 3/12/2009; Term ends: March 1, 2015

Qualification: cattle producer

French was one of the first women to receive a degree in animal science from Montana State University. French and

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

her husband own the T Lazy T Ranch where they run 550 head of Angus cattle. French has been active and held membership in the 4-H, Grain Growers, Montana Cattlemen Association, Montana Farm Bureau, Montana Stockgrowers Association, R-CALF, Montana Woolgrowers Association and the Montana Pork Producers.

Brett DeBruycker, 1692 6th Ln NE, Dutton MT 59433 (Member)

Contact Phone(s): 406-788-5694, 406-476-3214

Appointment date: 3/12/2009; Term ends: March 1, 2015

Qualification: cattle producer

DeBruycker has a BA from Montana State University in agriculture economics. A third generation farmer and rancher, he's raised purebred Charolais cattle for 20 years. The family operation markets over 800 purebred Charloais bulls yearly. The DeBruycker's also feed out cattle, and have managed or owned North Montana Feeders for nearly 30 years. DeBruycker is past president of the Montana Charolais Association and is currently president of the Montana Cattlemen's Association.

Jeffery Lewis, 1621 Chaffin Ln, Corvallis MT 59828 (Member)

Contact Phone(s): 406-961-5499, 406-360-1828

Appointment date: 3/12/2009; Term ends: March 1, 2011

Qualification: dairy producer

Lewis and his wife own and operate MuJuice Dairy in Corvallis, which was bought from Lewis's parents. Lewis also operates a composting and fertilizer business to handle the solid wastes produced by over 200 milk cows. He's a member of the National Federation of Independent Business and the Montana Farm Bureau, and serves on the Montana Beef Council as the dairy representative. He's also been involved with All West/Select Sires and 4-H.

John H. Lehfeldt, PO Box 125, Lavina MT 59046 (Member)

Contact Phone(s): 406-636-4212, 406-670-2117

Appointment date: 3/12/2009; Term ends: March 1, 2013

Qualification: sheep producer

Lehfeldt is a 4th generation rancher who operates the same ranch as his forbearers. He attended Montana State University, and spent two years in the Peace Corps. Lehfeldt runs 2,200 ewes and 250 mother cows. He's president of the Mountain Plains Agriculture Service, is on the board of the Center of the Nation Wool and belongs to the Montana Wool Growers Association.

MILK CONTROL BOARD -- 2-15-3105, MONTANA CODE ANNOTATED

The board is designated as a quasi-judicial board and consists of five members. A member may not be connected in any way with the production, processing, distribution, or wholesale or retail sale of milk or dairy products. A member may not have held an elective or appointive public office during the 2 years immediately preceding appointment, and a member may not hold a public office, either elective or appointive, during a term on the board. Not more than three members may be of the same political party.

Gary A. Parker, 50 Parker Rd, Fort Shaw MT 59443 (Chair)

Contact Phone(s): 406-264-5299

Appointment date: 3/6/2009; Term ends: January 1, 2013

Qualification: public representative; Democrat

Parker is currently a farmer, and operated a dairy until 1990. Parker attended Northern Montana College in Havre, and was active in FFA and sports during his school career. He's served as president of the Cascade County Pest Control board and chairman of the Sun River Valley School Board.

James Prinkki, 20 Taylor Hill Road, Roberts MT 59070 (Member)

Contact Phone(s): 406-446-2619

Appointment date: 3/6/2009; Term ends: January 1, 2013

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Qualification: public representative; Democrat

Prinkki is a third-generation farmer, and operated a dairy until 1994 when the farm converted to raising and selling hay. Prinkki is an Air Force veteran, has been on the Red Lodge school board, served as president of the Rock Creek Water Users and president of the Consolidated Ditch.

Larry Van Dyke, 2422 Fairway Dr, Bozeman MT 59715 (Member)

Contact Phone(s): 406-581-8000

Appointment date: 3/6/2009; Term ends: January 1, 2013

Qualification: public representative; Republican

Van Dyke has owned a farm operation raising grain, hay, and potatoes. He's been in leadership capacities for both the Kughen and Perks Canal Boards, has been president and secretary of the Manhattan and Montana Potato Growers and council member for the Manhattan Christian Reformed Church.

Jerrold A. Weissman, 2777 Greenbriar Dr, Great Falls MT 59404 (Member)

Contact Phone(s): 406-452-3333

Appointment date: 3/6/2009; Term ends: January 1, 2011

Qualification: public representative

Weissman has a degree in history with a minor in economics from the University of Miami (Florida). He held top leadership positions with Carl Weissman and Sons, Inc., was a founding member of Pasta Montana and is currently board chair of the National General Supply Company. He's state chair of the American-Israel Public Affairs Committee.

BOARD OF NURSING -- 2-15-1734, MONTANA CODE ANNOTATED

The board consists of nine members who serve staggered 4-year terms (maximum of two consecutive terms): four registered nurses, at least one must have had at least 5 years in administrative, teaching, or supervisory experience in one or more schools of nursing, at least one must be an advanced practice registered nurse, at least one must be engaged in nursing practice in a rural health care facility, and at least one must be currently engaged in the administration, supervision, or provision of direct client care. Each registered nurse member must be a graduate of an approved school of nursing; be a licensed registered professional nurse in this state; have had at least 5 years' experience in nursing following graduation; and be currently engaged in the practice of professional nursing and have practiced for at least 5 years. Three members are practical nurses, who must be graduates of a school of practical nursing; be licensed in this state; have had at least 5 years' experience as a practical nurse; and be currently engaged in the practice of practical nursing and have practiced for at least 5 years. Two members are public members who are not medical practitioners, involved in the practice of nursing or employment of nursing, or administrators of Montana health care facilities. All members must have been residents of this state for at least 1 year before appointment and must be citizens of the United States.

Connie Reichelt, Bullhook Clinic, 110 13th St, Havre MT 59501 (Member)

Contact Phone(s): 406-378-2189, 406-378-2361

Appointment date: 7/1/2009; Term ends: July 1, 2013

Qualification: advanced practice registered nurse

Reichelt is an advanced practice nurse/family nurse practitioner with the Bullhook Clinic. She received her master's degree in nursing from Montana State University in 2003, and was a Peace Corps volunteer.

BOARD OF PARDONS AND PAROLE -- 2-15-2302, MONTANA CODE ANNOTATED

The board is designated as a quasi-judicial board and consists of three members and four auxiliary members who serve staggered 4-year terms. Each member must have knowledge of American Indian culture and problems gained through training. Members of the board, including the auxiliary members, must possess academic training that has

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

qualified them for professional practice in a field such as criminology, education, psychiatry, psychology, law, social work, sociology, or guidance and counseling. Related work experience in the areas listed may be substituted for these educational requirements.

Teresa McCann O'Connor, 208 N Broadway Ste 412, Billings MT 59101 (attorney and member)

Contact Phone(s): 406-252-7127,

Appointment date: 3/10/2009; Term ends: January 1, 2013

Qualification: education or experience in criminology, education, psychiatry, psychology, law, social work, sociology, or guidance and counseling

O'Connor is in private practice with her husband. She has been a deputy county attorney for Yellowstone County, and was staff counsel for the American Library Association in Washington, DC. She has a bachelor's, a master's, and a JD degree from The Catholic University in Washington, D.C.

John Ward, 4525 Glass Dr, Helena MT 59602 (auxiliary member)

Contact Phone(s): 406-458-5025

Appointment date: 3/10/2009; Term ends: January 1, 2013

Qualification: education or experience in criminology, education, psychiatry, psychology, law, social work, sociology, or guidance and counseling

Ward is a small business owner and a former legislator, and served two terms on the House Judiciary Committee. He served in the U.S. Navy and Navy Reserve for 24 years, where he spent 11 years in military justice enforcement. He has a degree in marketing from Gonzaga University.

Samuel Lemaich, 2720 Carnoustie Way, Missoula MT 59808 (auxiliary member)

Contact Phone(s): 406-728-5108

Appointment date: 3/10/2009; Term ends: January 1, 2013

Qualification: education or experience in criminology, education, psychiatry, psychology, law, social work, sociology, or guidance and counseling

Lemaich has a psychology degree from the University of California-Davis. He's served as chair of Turning Point Chemical Dependency Center and has been on the Missoula DUI Task Force. He retired as a probation and parole officer with the Department of Corrections.

BOARD OF RADIOLOGIC TECHNOLOGISTS -- 2-15-1738, MONTANA CODE ANNOTATED

The board consists of seven members who serve staggered 3-year terms. One member is a radiologist licensed to practice medicine in Montana; one member is a physician licensed to practice medicine in Montana who employs at least one person granted a permit issued by the board; one member is a person granted a permit issued by the board; one member is a public member; and three members are radiologic technologists registered with the American Registry of Radiologic Technologists (ARRT) who are licensed radiologic technologists.

Kelli Bush, 2636 Harvard Ave, Butte MT 59701 (Member)

Contact Phone(s): 406-723-2572, 406-240-4470

Appointment date: 7/1/2009; Term ends: July 1, 2012

Qualification: radiologic technician

Bush is a Radiology Tech with St. James Healthcare. She received her training from the Benefis Healthcare School of Radiology Technology, and also studied pre-med/pre-pharmacy at the University of Montana. Bush is certified by the American Registry of Radiologic Technologists and is active in the Montana Society of Radiologic Technologists.

BOARD OF REALTY REGULATION -- 2-15-1757, MONTANA CODE ANNOTATED

The board consists of seven members who serve staggered 4-year terms, limited to not more than two full or partial terms. Five members must be licensed real estate brokers or salespeople or property managers who are actively engaged in the real estate business as a broker, a salesperson, or a property manager in this state. Two members must

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

be representatives of the public who are not state government officers or employees and who are not engaged in business as a real estate broker or salesperson. The members must be residents of this state. Not more than five members, including the presiding officer, may be from the same political party.

Lucinda Willis, PO Box 7, Polson MT 59860 (Member)

Contact Phone(s): 406-883-8037, 406-883-2453

Appointment date: 5/9/2009; Term ends: May 9, 2013

Qualification: real estate salesperson; Democrat

Willis is a self-employed real estate buyers' broker and operates Real Estate Buyers Solutions. She is active in and held office in the Polson Community Development Corporation and the Lake County Community Development Corporation

State Compensation Insurance Fund Board -- 2-15-1019, Montana Code Annotated

The board consists of seven members who serve 4-year terms (maximum of two 4-year terms). At least four of the seven members must represent State Fund policyholders and may be employees of State Fund policyholders. At least four members of the board shall represent private, for-profit enterprises. One of the seven members may be a licensed insurance producer. A member of the board may not, except for the licensed insurance producer member, represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or be an employee of a self-insured employer under compensation plan No. 1.

NOTE: Thomas Heisler's interim appointment was confirmed in SR 2.

James Swanson, 1301 N Kendrick, Glendive MT 59330 (Member)

Contact Phone(s): 406-377-5384,

Appointment date: 4/28/2009; Term ends: April 28, 2013

Qualification: insurance producer/policy holder

Swanson is an insurance agent and has been chair of the Glendive medical board and the Glendive police commission.

Jane DeBruycker, 1690 6th Ln NE, Dutton MT 59433 (Member)

Contact Phone(s): 406-476-3427

Appointment date: 4/28/2009; Term ends: April 28, 2013

Qualification: policy holder

DeBruycker is a farmer-rancher and former legislator. She has also provided management services to a local retirement home, and is active in the Bethany Lutheran Church.

Ken Johnson, 7389 Peregrine Ct, Missoula MT 59808 (Member)

Contact Phone(s): 406-543-4450, 406-728-6892

Appointment date: 4/28/2009; Term ends: April 28, 2013

Qualification: private enterprise/policy holder

Johnson is the president and owner of CM Manufacturing, which provides aircraft parts to the U.S. Department of Defense. His BS degree from the University of Montana is in business/finance.

Thomas R. Heisler, 90 Elk Dr, Great Falls MT 59404 (Member)

Contact Phone(s): 406-761-7009, 406-761-3060

Appointment date: 4/28/2009; Term ends: April 28, 2013

Qualification: private enterprise/policy holder

Heisler has owned and operated the same business in Great Falls since 1970. He's been active in insurance and workers' compensation issues.

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 15, introduced by Villa (by request of the Governor), referred to Finance and Claims.

HB 211, introduced by Welborn, Gebhardt, Blasdel, Keane, Menahan, Wilson, referred to Business, Labor, and Economic Affairs.

HB 262, introduced by Ebinger, Phillips, Driscoll, referred to Taxation.

HB 315, introduced by Blewett, Taylor, Brueggeman, Laslovich, referred to State Administration.

HB 356, introduced by Wagner, referred to Highways and Transportation.

HB 499, introduced by French, Vincent, Furey, Wilmer, referred to Fish and Game.

HB 585, introduced by McClafferty, Villa, Hamilton, A. Noonan, P. Noonan, Mehlhoff, Hiner, Augare, Sesso, Pease-Lopez, Dickenson, Ebinger, P. Beck, Howard, Malek, Belcourt, Hollenbaugh, Wilson, Campbell, Wilmer, Arntzen, Roundstone, Keane, referred to Fish and Game.

HB 635, introduced by McChesney (by request of House Joint Appropriations Subcommittee on General Government), referred to Business, Labor, and Economic Affairs.

HB 636, introduced by Dickenson, Hands, Mehlhoff, Belcourt, Getz, Augare, Henry, referred to Taxation.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 33, introduced by Bergren, Story, Williams, McNutt, referred to Finance and Claims.

SPECIAL ORDERS OF THE DAY

Senator Peterson introduced "Cork County Line," a band comprised of Ed Tinsley, Bill Lombardi, Mark Piskolich, and Errol Koch. "Cork County Line" performed a song in honor of Charlie Russell's birthday, as well as a song about cowboys, horses, and the hard but rewarding life of working on the land.

MOTIONS

Senator J. Peterson moved the Senate recess for caucus. Motion carried.

Senate in recess.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hawks in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 114 - Senator Wanzenried moved **SB 114** do pass. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 114 - Senator J. Peterson moved **SB 114** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Hawks moved the Committee of the Whole report be adopted. Report adopted unanimously.

SB 418 - Senator Zinke moved **SB 418** be concurred in.

Senator Zinke withdrew his motion.

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Hawks moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 452 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 47, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 49, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

HB 41 concurred in as follows:

Barkus, Barrett, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Balyeat, Black, Brenden, R. Brown, Hinkle, Jackson, McGee, Ripley, Steinbeisser.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 72 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Hinkle, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 75 concurred in as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 31

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Steinbeisser, Tutvedt.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

HB 78 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Erickson, Juneau, Kaufmann, Schmidt.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 93 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 139 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Cooney, Erickson, Juneau, Kaufmann, Moss, Williams.

Total 6

Absent or not voting: None.

Total 0

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Excused: None.
Total 0

HB 153 concurred in as follows:

Yeas: Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 36

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Gebhardt, Hinkle, McGee, Ripley, Steinbeisser, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

Consul General Dale Eisler, Canadian Federal Government, addressed the Senate.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Hawks in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 418 - Senator Zinke moved **HB 418** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Lewis, McGee, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Perry, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SIXTY-FIRST LEGISLATIVE DAY - MARCH 19, 2009

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Hawks moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, March 20, 2009. Motion carried.

Senate adjourned at 3:23 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-SECOND LEGISLATIVE DAY**

Helena, Montana
March 20, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Juneau and Moss, excused. Quorum present.

BILLS AND JOURNALS:

3/20/2009

Correctly printed: **SR 9, HB 146, HB 193, HB 322, HB 357, HB 400, HB 418, HB 530, HB 621.**

Correctly engrossed: **SB 303, SB 502, HB 195, HB 197, HB 291, HB 354, HB 365, HB 386, HB 397, HB 407, HB 593, HB 622, HJR 14.**

Correctly enrolled: **SB 47, SB 49, SB 216.**

Delivered to the Governor for approval at 4:00 p.m., March 19, 2009: **SB 40, SB 54, SB 88, SB 170, SB 438.**

Signed by the Speaker at 3:00 p.m., March 19, 2009: **SB 40, SB 54, SB 88, SB 170, SB 438.**

Signed by the President at 9:15 a.m., March 19, 2009: **SB 40, SB 54, SB 88, SB 170, SB 438.**

Signed by the Secretary of the Senate at 3:40 p.m., March 18, 2009: **SB 40, SB 54, SB 88, SB 170, SB 438.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

3/20/2009

HB 290, be amended as follows:

1. Page 1, line 17.

Strike: "\$45,000"

Insert: "\$25,000"

2. Page 1, line 24.

Strike: "\$45,000"

Insert: "\$25,000"

3. Page 2, line 6.

Strike: "\$45,000"

Insert: "\$25,000"

4. Page 2, line 10.

Strike: "\$45,000"

Insert: "\$25,000"

And, as amended, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

3/20/2009

HB 378, be concurred in. Report adopted.

HB 412, be amended as follows:

1. Title, page 1, line 6.

Following: "PROVIDING"

Insert: "AN IMMEDIATE EFFECTIVE DATE AND"

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

2. Page 2, line 1.

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

Renumber: subsequent section

3. Page 2, line 2 through line 3.

Strike: "September" on line 2 through "30" on line 3

Insert: "July 1"

And, as amended, be concurred in. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

3/19/2009

SB 63, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "PROVIDING"

Insert: "A"

2. Title, page 1, line 7.

Strike: "INCENTIVES"

Insert: "INCENTIVE"

Strike: "AND THEIR EMPLOYERS"

3. Page 1, line 29.

Following: "care;"

Insert: "or"

4. Page 1.

Strike: line 30 in its entirety

Renumber: subsequent subsection

5. Page 2, line 2.

Strike: "\$1,000"

Insert: "\$100"

6. Page 2, line 6.

Strike: "\$1,000"

Insert: "\$100"

7. Page 2, line 12 through page 3, line 9.

Strike: section 3 through section 4 in their entirety

Renumber: subsequent sections

8. Page 4, line 7.

Strike: "5"

Insert: "3"

9. Page 4, line 15.

Strike: "[Sections 2 and 4] are"

Insert: "[Section 2] is"

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

10. Page 4, line 16.

Strike: "[sections 2 and 4]"

Insert: "[section 2]"

11. Page 4, line 17 through line 18.

Strike: subsection (3) in its entirety

Renumber: subsequent subsection

12. Page 4, line 19.

Following: "[Section]"

Strike: "5"

Insert: "3"

13. Page 4, line 20.

Strike: "5"

Insert: "3"

14. Page 4, line 24.

Strike: "5"

Insert: "3"

15. Page 4, line 26.

Strike: "[Sections 2 through 4] apply"

Insert: "[Section 2] applies"

And, as amended, do pass. Report adopted.

SB 183, do pass. Report adopted.

SB 217, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "DISEASES"

Insert: "BRUCELLOSIS"

2. Title, line 6.

Following: "BY"

Strike: "GAME ANIMALS"

Insert: "ELK"

Following: "WHEN"

Strike: "GAME ANIMAL"

Insert: "ELK"

3. Title, line 7.

Following: "MET"

Insert: "IN COUNTIES WHERE LIVESTOCK ARE BEING TESTED"

4. Page 2, line 1.

Following: "for"

Strike: "game animals, as defined in 87-2-101,"

Insert: "elk"

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

5. Page 2, line 2.

Following: "met"

Insert: "in counties where livestock are being tested"

Following: "for"

Strike: "diseases"

Insert: "brucellosis"

6. Page 2, line 3.

Following: "by"

Strike: "game animals"

Insert: "elk"

And, as amended, do pass. Report adopted.

SB 241, introduced bill, be amended as follows:

1. Title, line 17.

Following: "COUNCIL;"

Insert: "PROVIDING FOR A DESIGN AND COST PROPOSAL AND A BUSINESS CASE ANALYSIS BY THE
LEGISLATIVE FISCAL DIVISION;"

2. Title, line 18.

Strike: "AN"

Following: "EFFECTIVE"

Strike: "DATE"

Insert: "DATES"

3. Page 2, line 26 through line 27.

Following: "expenditure" on line 26

Strike: remainder of line 26 through "employee" on line 27

Insert: "at the program level"

4. Page 3, line 17.

Strike: "By January 2011, the"

Following: "department"

Insert: "The"

5. Page 4, line 23.

Insert: "NEW SECTION. Section 6. Design and cost proposal -- business case analysis -- recommendation."

The legislative fiscal division, in cooperation with the legislative services division, shall prepare a design or cost proposal and business case analysis needed to implement [sections 1 through 5]. The proposal must be submitted to the legislative finance committee and the legislative council for policy or budget recommendations for the 2011 legislature."

Renumber: subsequent sections

6. Page 5, line 28.

Insert: "NEW SECTION. Section 10. Contingent voidness. If an appropriation for the purposes of [sections 1 through 6] is not included in House Bill No. 2 or House Bill No. 645, [this act] is void."

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

7. Page 5, line 29.

Following: "Effective"

Strike: "date"

Insert: "dates"

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

Following: line 29

Insert: "(2) [Sections 1 through 4 and 8] are effective July 1, 2011."

And, as amended, do pass. Report adopted.

SB 245, introduced bill, be amended as follows:

1. Page 1, lines 20 and 21.

Following: "implications." on line 20

Strike: remainder of line 20 through "impact." on line 21

And, as amended, do pass. Report adopted.

SB 291, do pass. Report adopted.

SB 446, introduced bill, be amended as follows:

1. Page 9, line 22.

Following: "hospital AND"

Insert: "the hospital"

And, as amended, do pass. Report adopted.

SB 505, introduced bill, be amended as follows:

1. Page 1, line 25.

Strike: "reaches"

Insert: "has reached"

2. Page 1, line 27.

Strike: "reaches"

Insert: "has reached"

3. Page 2, line 19.

Strike: "a \$200"

Insert: "an \$800"

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman):

3/20/2009

SB 491, introduced bill, be amended as follows:

1. Title, line 6.

Following: "LAW;"

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

Insert: "PROVIDING A TRANSITION PROVISION;"

2. Page 2, line 7.

Insert: "(3) (a) For the purposes of this section, "group benefits" means group hospitalization, health, medical, surgical, life, and other similar and related group benefits provided to officers and employees of political subdivisions, including flexible spending account benefits and payments in lieu of group benefits.

(b) The term does not include casualty insurance as defined in 33-1-206, marine insurance as authorized in 33-1-209 and 33-1-221 through 33-1-229, property insurance as defined in 33-1-210, surety insurance as defined in 33-1-211, and title insurance as defined in 33-1-212."

3. Page 2, line 28.

Strike: "local government units"

Insert: "political subdivisions, as defined in 2-9-101, except school districts"

4. Page 3, line 8.

Strike: "unit of local government"

Insert: "political subdivision"

5. Page 3, line 16.

Strike: "the"

Insert: "that year's average annual contribution and subtracting from that amount the"

6. Page 6, line 4.

Insert: "NEW SECTION. Section 4. Transition. (1) Except as provided in subsection (2), a political subdivision that levied mills for group contributions pursuant to 2-18-703 in fiscal year 2009 may for the fiscal years 2010 through 2014 levy the greater of:

(a) the dollar amount levied in 2009; or

(b) the amount determined in 2-18-703.

(2) The actual dollar amount under subsection (1)(a) may not include an amount for group benefits paid from user charges described in 2-9-212(2)(a)(i)."

Renumber: subsequent sections

And, as amended, do pass. Report adopted.

SB 499, introduced bill, be amended as follows:

1. Page 1, line 26.

Strike: "The following production"

Insert: "That portion of the production from a new or existing mine that is used in facilities described in 15-6-157(1)(h) or (1)(k)"

2. Page 1, line 27 through page 2, line 1.

Following: "(1)" on line 27

Insert: "."

Strike: ";" on page 1, line 27 through "(1)(k)." on page 2, line 1

3. Page 2, line 3.

Following: "qualify"

Insert: "as a new mine"

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

Following: "(4)(a)"
Strike: "(i)"

4. Page 2, line 5.
Following: "(4)(a)"
Strike: "(ii)"

5. Page 2, line 7.
Following: "(4)(a)"
Strike: "(ii)"

6. Page 2, line 10.
Strike: "exemptions"
Insert: "exemption"
Strike: "subsections (4)(a)(i) and (4)(a)(ii) continue"
Insert: "subsection (4)(a) continues"

7. Page 2, line 11.
Strike: "do"
Insert: "does"

And, as amended, do pass. Report adopted.

HB 588, be amended as follows:

1. Page 2, line 18.
Strike: "Except" through "those"
Insert: "Those"

2. Page 2, line 18 through line 20.
Strike: "in the relative" on line 18 through "fiscal year" on line 20
Insert: "as follows:

(i) the state share must be distributed in the relative proportions required by levies for state purposes in the same manner as property taxes were distributed in fiscal year 1990;

(ii) except as provided in subsection (4), the county share must be distributed in the relative proportions required by levies for county purposes, other than an elementary school or high school, in the same manner as property taxes were distributed in the previous fiscal year;

(iii) except as provided in subsection (5), the school districts' share must be distributed in the relative proportions required by levies for school district purposes in the same manner as property taxes were distributed in the previous fiscal year"

3. Page 2, line 23.
Following: "(3)(b)"
Insert: "(i)"

And, as amended, be concurred in. Report adopted.

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to Senate Bill 74
Report No. 0, March 20, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 74** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 74** (reference copy -- salmon) be amended as follows:

1. Page 1, line 22.

Strike: "AND OTHER APPROPRIATE"

For the Senate:

Laible, Chairman
Esp
Laslovich

For the House:

Sands, Vice Chairman
Ingraham
Pomnichowski

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/19/2009

HB 4, introduced by Jones
HB 216, introduced by Menahan
HB 416, introduced by MacDonald
HB 478, introduced by Grinde

Senate amendments to House bills concurred in: 3/19/2009

HB 39, introduced by Cohenour
HB 179, introduced by Villa
HB 288, introduced by Kerns

HB 23 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 23**:

Representative Phillips, Vice Chair 3/19/2009
Representative Himmelberger
Representative McAlpin
Representative Brown

Senate bill concurred in and returned to the Senate: 3/19/2009

SB 216, introduced by Laslovich

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 511, introduced by M. Tropila, referred to Business, Labor, and Economic Affairs.

The following House bills were introduced, read first time, and referred to committees:

HB 4, introduced by Jones (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 216, introduced by Menahan, referred to Judiciary.

HB 416, introduced by MacDonald, Getz, P. Beck, Berry, Brueggeman, referred to Highways and Transportation.

HB 478, introduced by Grinde, MacDonald, referred to Agriculture, Livestock and Irrigation.

MOTIONS

Senator Peterson moved that a conference committee be appointed for **HB 23**. Motion carried. Senator Curtiss, Senator Gebhardt, and Senator Gallus appointed.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Perry in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Juneau present at this time.

Senator Moss present at this time.

SB 343 - Senator Jackson moved **SB 343** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat, Juneau.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 350 - Senator Gillan moved **SB 350** do pass. Motion carried as follows:

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat, Hinkle, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 24 - Senator Kaufmann moved **HB 24** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 58 - Senator Bales moved **HB 58** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

Senator McGee assumed the chair.

HB 150 - Senator Perry moved **HB 150** be concurred in.

HB 150 - Senator Jent moved **HB 150**, second reading copy, be amended as follows:

1. Page 2, line 13.

Following: "activity"

Insert: "and that cannot be prevented by the use of reasonable care"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 150 - Senator Perry moved **HB 150**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 33

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, Wanzenried, Williams.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Schmidt excused at this time.

Senator Perry re-assumed the chair.

Senator Branae excused at this time.

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

SB 460 - Senator Story moved **SB 460** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 21

Absent or not voting: None.
Total 0

Excused: Branae, Schmidt.
Total 2

Senator Schmidt present at this time.

HB 55 - Senator Hinkle moved **HB 55** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 40

Nays: Erickson, Esp, Juneau, Kaufmann, Keane, Moss, Schmidt, Williams, Windy Boy.
Total 9

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

HB 106 - Senator Murphy moved **HB 106** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

HB 133 - Senator Esp moved **HB 133** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

HB 214 - Senator Larsen moved **HB 214** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

HB 230 - Senator Gallus moved **HB 230** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

Nays: Bales, Hinkle.
Total 2

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

HB 367 - Senator R. Brown moved **HB 367** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

HB 623 - Senator Barkus moved **HB 623** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

HJR 7 - Senator Hansen moved **HJR 7** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser,

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Erickson, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

HJR 25 - Senator Lewis moved **HJR 25** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Perry moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 418 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Lewis, McGee, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Perry, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Paired: Essmann, Aye; Branae, No.

SENATE JOURNAL
SIXTY-SECOND LEGISLATIVE DAY - MARCH 20, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Wanzenried moved to reconsider the indefinitely postpone action on **SB 114**. Motion **failed** as follows:

Yeas: Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: Branae.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Saturday, March 21, 2009. Motion carried.

Senate adjourned at 2:59 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-THIRD LEGISLATIVE DAY**

Helena, Montana
March 21, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Branae, Hansen, Juneau, and Schmidt, excused. Quorum present.

BILLS AND JOURNALS:

3/21/2009

Correctly printed: **SB 183, SB 291, SB 343, SB 350, SB 460, SB 511, HB 24, HB 55, HB 58, HB 106, HB 133, HB 214, HB 230, HB 367, HB 378, HB 623, HJR 7, HJR 25.**

Correctly engrossed: **SB 63, SB 217, SB 241, SB 245, SB 446, SB 491, SB 499, SB 505, HB 150, HB 290, HB 412, HB 588.**

Signed by the Speaker at 10:00 a.m., March 21, 2009: **SB 47, SB 49, SB 216.**

Signed by the President at 4:30 p.m., March 20, 2009: **SB 47, SB 49, SB 216.**

Signed by the Secretary of the Senate at 3:45 p.m., March 20, 2009: **SB 47, SB 49, SB 216.**

Examined by the sponsor and found to be correct: **SB 47, SB 49, SB 216**

Senator McGee, President pro tem, assumed the chair.

Senator Juneau present at this time.

REPORTS OF STANDING COMMITTEES

TAXATION (Essmann, Chairman):

3/20/2009

SB 37, introduced bill, be amended as follows:

1. Title, page 1, line 9.

Following: "DATE"

Insert: ", "

2. Title, line 10.

Strike: "AND A RETROACTIVE"

Insert: "AN"

Following: "DATE"

Insert: ", AND A TERMINATION DATE"

3. Page 1, line 26.

Following: "taxpayer"

Insert: "or a married taxpayer filing on a separate form"

4. Page 1, line 27.

Following: "form"

Insert: "or a taxpayer filing as a head of household"

5. Page 2, line 16.

Strike: "taxpayer"

Insert: "person making the investment"

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

6. Page 2, line 19.

Insert: "COORDINATION SECTION. **Section 2. Coordination instruction.** If House Bill No. 645 is not passed and approved with specific funding for the increased income tax credits provided in [this act], then [this act] is void."

Renumber: subsequent sections

7. Page 2, line 22.

Strike: "Retroactive applicability"

Insert: "Applicability"

8. Page 2, line 23.

Following: "2008"

Insert: ", and tax years ending before January 1, 2011"

9. Page 2.

Following: line 23

Insert: "NEW SECTION. **Section 5. Termination.** [Section 1] terminates December 31, 2010."

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/20/2009

HB 3, introduced by Ankney

HB 224, introduced by Hiner

Senate amendments to House bills concurred in: 3/20/2009

HB 119, introduced by Hunter

HB 304, introduced by Sonju

Senate bill concurred in and returned to the Senate: 3/20/2009

SB 20, introduced by Jent

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 3/20/2009

SB 79, introduced by Juneau

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

MESSAGES FROM THE GOVERNOR

March 17, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 42** sponsored by Senator Laslovich, **Senate Bill 90** sponsored by Senator Jackson, **Senate Bill 116** sponsored by Senator Keane, **Senate Bill 125** sponsored by Senator Shockley, **Senate Bill 130** sponsored by Senator Hamlett, and **Senate Bill 181** sponsored by Senator Esp on March 16-17, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

March 20, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 18, "**AN ACT REVISING THE LAWS GOVERNING FISCAL NOTES; SUBSTITUTING A SPONSOR'S FISCAL NOTE REBUTTAL FOR A SPONSOR'S FISCAL NOTE; PROVIDING FOR THE CONTENT OF A SPONSOR'S FISCAL NOTE REBUTTAL; CLARIFYING THE CONTENT OF FISCAL NOTES; AMENDING SECTIONS 5-4-204 AND 5-4-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**" for the following reasons.

Senate Bill 18 amends two sections of law pertaining to fiscal notes. Primarily, the purpose of my proposed amendment is to indicate that any estimate change in revenue in a fiscal note must be based on "appropriate," rather than "accepted," revenue estimating methodologies. My concern is that an "accepted" revenue estimating methodology could be construed to be the methodology used in preparing revenue estimates under § 5-5-227, MCA. That is not always the methodology used currently in the preparation of fiscal notes, and I understand that it was not the intent of the bill to alter current practices in this regard.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Additionally, I have added the word "base" to the phrase "present law" where it is used in the bill, since the term "present law base" is one that is defined in statute. See § 17-7-102, MCA.

I have discussed the amendments with the bill's sponsor, Senator Wanzenried, who has expressed his support.

Sincerely,

BRIAN SCHWEITZER
Governor

**GOVERNOR'S AMENDMENTS
TO SENATE BILL 18**

2, line 30.

Strike: "accepted"

Insert: "appropriate"

2. Page 3, line 3.

Following: "law"

Insert: "base"

March 20, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 117, "AN ACT REVISING STATUTORY APPROPRIATIONS; ELIMINATING CERTAIN STATUTORY APPROPRIATIONS CONCERNING VARIOUS MISCELLANEOUS PROVISIONS; TRANSFERRING THE AUTHORIZED USE OF THE STATUTORY APPROPRIATION FOR THE OPTIONAL RETIREMENT PROGRAM FOR THE ADMINISTRATIVE OFFICERS AND MEMBERS OF THE INSTRUCTIONAL AND SCIENTIFIC STAFF OF THE MONTANA UNIVERSITY SYSTEM FROM THE STATE TREASURER TO THE BOARD OF REGENTS; CONSOLIDATING CERTAIN HORSERACING STATUTORY APPROPRIATIONS INTO ONE STATUTORY APPROPRIATION; ELIMINATING AN INVALID STATUTORY APPROPRIATION RELATIVE TO THE CERCLA MATCH DEBT SERVICE FUND; AMENDING SECTIONS 17-7-304, 17-7-502, 19-21-203, 23-4-105, 23-4-202, 23-4-204, 23-4-302, 23-4-304, 44-1-504, 53-6-703, 75-5-1108, 75-6-214, 75-10-622, 80-5-510, AND 87-1-513, MCA; AND PROVIDING AN EFFECTIVE DATE" for the following reasons.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Senate Bill 117 was prepared and is by the request of the Legislative Finance Committee (LFC) Among other things, it repeals numerous statutory appropriations in current law that, according to a September 26, 2008 report to the LFC by its staff, were stated as not having been used since at least FY 2001. At the time the bill was being developed during the interim, it is my understanding that the LFC and certain executive branch agencies believed that loans issued under the water pollution control and drinking water state revolving funds did not require an appropriation by the legislature. When Senate Bill 117 was delivered to me, I learned that loans of state money are considered by state accountants as payments of money requiring an appropriation under Article VIII, section 14 of the Montana Constitution. I have received similar legal advise (sic) as well.

My amendments, therefore, strike sections 11 and 12 of Senate Bill 117 so as to retain the existing statutory appropriations for loans made under the water pollution control and drinking water state revolving funds, which, because of fluctuations in the balances of these funds, require flexible appropriation authority in order to be meaningful.

I have discussed the amendments with the bill's sponsor. Senator Wanzenreid, who has expressed his support.

Sincerely,

BRIAN SCHWEITZER
Governor

**GOVERNOR'S AMENDMENTS
TO SENATE BILL 117**

3. Title, line 14.

Strike: "75-5-1108, 75-6-214,"

4. Page 3, line 14.

Following: "~~75-6-214,~~"

Insert: "75-5-1108; 75-6-214;"

5. Page 11, lines 8 through 15.

Strike: sections 11 and 12 in their entirety

Renumber: subsequent sections

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 3, introduced by Ankney (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 224, introduced by Hiner, Villa, Lewis, Laslovich, referred to Finance and Claims.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 30, introduced by Zinke, referred to State Administration.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

SB 343 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Esp, Juneau.
Total 3

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

SB 350 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Hinkle.
Total 1

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

SB 460 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Nays: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Paired: Barkus, Esp, Laible, Aye; Branae, Hansen, Schmidt, No.

Absent or not voting: None.
Total 0

Excused: None.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Total 0

HB 24 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

HB 55 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Erickson, Esp, Juneau, Kaufmann, Keane, Moss.

Total 6

Absent or not voting: None.

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

HB 58 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Excused: Branae, Hansen, Schmidt.
Total 3

HB 106 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 133 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Curtiss, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 214 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 45

Nays: Esp, Mr. President.
Total 2

Absent or not voting: None.
Total 0

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Excused: Branae, Hansen, Schmidt.
Total 3

HB 230 concurred in as follows:

Yeas: Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Bales, Balyeat, Hinkle, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 367 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 623 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

HJR 7 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Erickson, Esp, Kaufmann.

Total 3

Absent or not voting: None.

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

HJR 25 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Black, Esp, Gallus, Larsen.

Total 4

Absent or not voting: None.

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Essmann in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 264 - Senator Brueggeman moved **SB 264** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

Senator Windy Boy excused at this time.

SB 429 - Senator Zinke moved **SB 429** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 43

Nays: Juneau, Kaufmann, M. Tropila.

Total 3

Absent or not voting: None.

Total 0

Excused: Branae, Hansen, Schmidt, Windy Boy.

Total 4

Senator Windy Boy present at this time.

SB 467 - Senator Balyeat moved **SB 467** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Excused: Branae, Hansen, Schmidt.
Total 3

HB 21 - Senator Kaufmann moved **HB 21** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 155 - Senator Brueggeman moved **HB 155** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 193 - Senator Windy Boy moved **HB 193** be concurred in. Motion carried as follows:

Yeas: Barrett, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Bales, Balyeat, Barkus, Black, Brenden.
Total 5

Absent or not voting: None.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

HB 195 - Senator Balyeat moved **HB 195** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

HB 264 - Senator J. Peterson moved consideration of **HB 264** be passed for the day. Motion carried.

HB 291 - Senator Keane moved **HB 291** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Branae, Hansen, Schmidt.

Total 3

HB 307 - Senator Hinkle moved **HB 307** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Nays: R. Brown, Hawks, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 322 - Senator Shockley moved **HB 322** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 326 - Senator Barkus moved **HB 326** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 354 - Senator Gebhardt moved **HB 354** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 372 - Senator Moss moved **HB 372** be concurred in. Motion carried as follows:

Yeas: Balyeat, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Bales, Barkus, Barrett, Hinkle, McGee, Ripley, Steinbeisser.
Total 7

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 387 - Senator Jackson moved **HB 387** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 397 - Senator Esp moved **HB 397** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann,

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 407 - Senator Laslovich moved **HB 407** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

HB 621 - Senator J. Tropila moved **HB 621** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 45

Nays: Hinkle, Windy Boy.
Total 2

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

SR 9 - Senator Shockley moved that the following nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 9, and that they ayes and nays be spread upon the journal:

(1) As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

1. Tricia McKenna, Bozeman Montana, for a term ending January 1, 2013.

Bill Hunt Jr., Shelby, Montana, for a term ending January 1, 2013.

Fred Leistiko, Kalispell, Montana, for a term ending January 1, 2013.

Roger Lincoln, Gildford, Montana, for a term ending January 1, 2013.

Ted Schye, Fort Peck, Montana, for a term ending January 1, 2013.

(2) As a member of the Board of Architects and Landscape Architects, in accordance with section 2-15-1761, MCA:

James G. Shepard, Billings, Montana, for a term ending March 27, 2012.

(3) As members of the Capital Investment Board, in accordance with section 90-10-201, MCA:

Lawrence A. Anderson, Great Falls, Montana, for a term ending January 1, 2013.

Ellen Feaver, Helena, Montana, for a term ending January 1, 2013.

Robert Pancich, Great Falls, Montana, for a term ending January 1, 2013.

(4) As members of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

John Sando, Butte, Montana, for a term ending January 1, 2012.

Alice Whiteman, Missoula, Montana, for a term ending January 1, 2012.

(5) As a member of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Wendy Palmer, Raynesford, Montana, for a term ending April 16, 2012.

(6) As members of the Coal Board, in accordance with section 2-15-1821, MCA:

Gerald Navratil, Sidney, Montana, for a term ending January 1, 2013.

John Williams, Colstrip, Montana, for a term ending January 1, 2013.

Dan Dutton, Belfry, Montana, for a term ending January 1, 2013.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Chad Fenner, Hardin, Montana, for a term ending January 1, 2013.

(7) As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Mike Anderson, Havre, Montana, for a term ending January 1, 2013.

Mikie Baker-Hajek, Great Falls, Montana, for a term ending January 1, 2013.

Steve Bullock, Helena, Montana, for a term ending January 1, 2013.

James R. Cashell, Bozeman, Montana, for a term ending January 1, 2013.

Lyndon Erickson, Glasgow, Montana, for a term ending January 1, 2013.

Harold F. Hanser, Billings, Montana, for a term ending January 1, 2013.

Pamela B. Kennedy, Kalispell, Montana, for a term ending January 1, 2013.

Steve McArthur, Butte, Montana, for a term ending January 1, 2013.

Nickolas C. Murnion, Jordan, Montana, for a term ending January 1, 2013.

Bonnie Wallem, Kalispell, Montana, for a term ending January 1, 2013.

(8) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Jennifer Porter, Bozeman, Montana, for a term ending March 29, 2014.

Dale Chamberlain, Lewistown, Montana, for a term ending March 29, 2014.

(9) As a member of the State Electrical Board, in accordance with section 2-15-1764, MCA:

Rick Hutchinson, Black Eagle, Montana, for a term ending July 1, 2014.

(10) As members of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

James W. (Bill) Kearns, Townsend, Montana, for a term ending January 1, 2013.

Richard King, Missoula, Montana, for a term ending January 1, 2013.

Jon Marchi, Polson, Montana, for a term ending January 1, 2013.

Larry Putnam, Helena, Montana, for a term ending January 1, 2013.

(11) As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Trudy Laas Skari, Chester, Montana, for a term ending April 18, 2012.

(12) As members of the Human Rights Commission, in accordance with section 2-15-1706, MCA:

Maria Beltran, Billings, Montana, for a term ending January 1, 2013.

Linda Minich, Jefferson City, Montana, for a term ending January 1, 2013.

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Allen Secher, Whitefish, Montana, for a term ending January 1, 2013.

(13) As members of the Board of Labor Appeals, in accordance with section 2-15-1704, MCA:

Norman Grosfield, Helena, Montana, for a term ending January 1, 2013.

Brian Boland, Great Falls, Montana, for a term ending January 1, 2013.

(14) As members of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Lynn Yocom, Anaconda, Montana, for a term ending December 31, 2012.

Sue Furey, Missoula, Montana, for a term ending December 31, 2012.

(15) As members of the Board of Oil and Gas Conservation, in accordance with section 2-15-3303, MCA:

Donald D. Bradshaw, Fort Benton, Montana, for a term ending January 1, 2013.

Linda Nelson, Medicine Lake, Montana, for a term ending January 1, 2013.

Wayne Smith, Valier, Montana, for a term ending January 1, 2013.

Jay Gunderson, Billings, Montana, for a term ending January 1, 2013.

(16) As a member of the Board of Optometry, in accordance with section 2-15-1736, MCA:

Rock E. Svennungsen, Shelby, Montana, for a term ending April 3, 2013.

(17) As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Quinton Nyman, Helena, Montana, for a term ending January 1, 2013.

James (Jay) Reardon, Helena, Montana, for a term ending January 1, 2013.

Karla Stanton, Billings, Montana, for a term ending January 1, 2013.

(18) As a member of the Board of Professional Engineers and Land Surveyors, in accordance with section 2-15-1763, MCA:

Hal Jacobson, Helena, Montana, for a term ending July 1, 2010.

(19) As a member of the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Linda Harris, Absarokee, Montana, for a term ending July 1, 2013.

(20) As members of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Amy D. Christensen, Helena, Montana, for a term ending January 1, 2013.

Scott Sorensen, Whitefish, Montana, for a term ending January 1, 2013.

(21) As a member of the Public Employees Retirement Board, in accordance with section 2-15-1009, MCA:

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Timm Twardoski, Helena, Montana, for a term ending April 1, 2011.

(22) As members of the Montana Public Safety Officer Standards and Training Council, in accordance with section 44-4-402, MCA:

Steve Barry, Helena, Montana, for a term ending January 1, 2013.

Tony Harbaugh, Miles City, Montana, for a term ending January 1, 2013.

Georgette Hogan, Hardin, Montana, for a term ending January 1, 2011.

Robert M. McCarthy, Butte, Montana, for a term ending January 1, 2013.

Dennis McCave, Billings, Montana, for a term ending January 1, 2013.

Raymond Murray, Missoula, Montana, for a term ending January 1, 2013.

Bonnie Wallem, Kalispell, Montana, for a term ending January 1, 2013.

Greg Watson, Whitehall, Montana, for a term ending January 1, 2013.

(23) As members of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Hugh Cecil, Kalispell, Montana, for a term ending July 1, 2011.

Anna L. Hazen, Fort Benton, Montana, for a term ending July 1, 2011.

Charlotte Kelley, Clancy, Montana, for a term ending July 1, 2011.

Charles McCubbins, Columbia Falls, Montana, for a term ending July 1, 2011.

(24) As a member of the Board of Research and Commercialization Technology, in accordance with section 2-15-1819, MCA:

Mr. Michael Dolson, Plains, Montana, for a term ending July 1, 2010.

(25) As members of the Board of Respiratory Care Practitioners, in accordance with section 2-15-1750, MCA:

Eileen Carney, Libby, Montana, for a term ending January 1, 2013.

Leonard Bates, Wolf Creek, Montana, for a term January 1, 2013.

Tony Jay Miller, Joplin, Montana, for a term ending January 1, 2013.

Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

SENATE JOURNAL
SIXTY-THIRD LEGISLATIVE DAY - MARCH 21, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Branae, Hansen, Schmidt.
Total 3

Senator R. Brown thanked the Pages for their work during the week of March 16-21, 2009.

MOTIONS

Senator Hinkle moved to change his third reading vote on **SB 343** from no to yes. Without objection, motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, March 23, 2009. Motion carried.

Senate adjourned at 9:27 a.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
March 23, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

3/23/2009

Correctly printed: **SB 264, SB 429, SB 467, SJR 30, HB 21, HB 155, HB 193, HB 195, HB 291, HB 307, HB 322, HB 326, HB 354, HB 372, HB 387, HB 397, HB 407, HB 621.**

Correctly engrossed: **SB 37.**

Correctly enrolled: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409, SR 9.**

Delivered to the Governor for approval at 9:50 a.m., March 23, 2009: **SB 47, SB 49, SB 216.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):
SB 234, introduced bill, be amended as follows:

3/23/2009

1. Title, line 8.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 11.

Following: line 6

Insert: "NEW SECTION. Section 9. Applicability. [This act] applies to contracts or policies issued or renewed on or after [the effective date of this act]."

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):
SB 379, introduced bill, be amended as follows:

3/23/2009

1. Page 1, line 12.

Following: "knowing"

Strike: "or in reckless disregard of the fact"

2. Page 1, line 14 through line 15.

Following: "knowing" on line 14

Strike: remainder of line 14 through "fact" on line 15

3. Page 1, line 16 through line 17.

Following: "knowing" on line 16

Strike: remainder of line 16 through "fact" on line 17

4. Page 1, line 20 through line 21.

Strike: subsection (a) in its entirety

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Renumber: subsequent subsections

5. Page 2, line 16.

Strike: "including"

Insert: "excluding"

6. Page 2, line 19.

Strike: "Real property or commercial"

Insert: "Commercial"

7. Page 2, line 20.

Strike: "property"

Insert: "commercial fixtures or equipment"

8. Page 2, line 22.

Strike: "real property or"

9. Page 2, line 28.

Following: line 27

Insert: "(4) This section does not apply to a church, church property, or the property of a corporation or other organization exempt from taxation pursuant to 26 U.S.C. 501(c)(3)."

Renumber: subsequent subsection

And, as amended, do pass. Report adopted.

HB 177, be amended as follows:

1. Page 1, line 27.

Following: line 26

Insert: "(3) A sexual or violent offender who is subject to lifetime supervision by the department is not eligible for a conditional discharge from supervision."

And, as amended, be concurred in. Report adopted.

HB 269, be amended as follows:

1. Title, line 4 through line 5.

Following: "'AN ACT" on line 4

Strike: remainder of line 4 through "DETERMINE" on line 5

Insert: "REVISING"

2. Page 1, line 20.

Following: "\$25"

Strike: "a specified number of dollars"

Insert: "every \$75"

3. Page 1, line 21 through line 22.

Following: "fine" on line 21

Strike: remainder of line 21 through "jail" on line 22

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

4. Page 2, line 8.

Following: "\$20"

Strike: "a specified number of dollars"

Insert: "each \$75"

5. Page 2, line 8 through line 10.

Following: "fine" on line 8

Strike: remainder of line 8 through "jail" on line 10

And, as amended, be concurred in. Report adopted.

HB 362, be amended as follows:

1. Page 2, line 23.

Following: "materials,"

Strike: "naturally occurring biological diseases,"

Insert: "outbreak of disease,"

2. Page 4, line 17.

Following: "medicine."

Insert: "The provisions of [section 6] do not apply to the state of emergency unless the order or proclamation includes a provision authorizing the practice of disaster medicine."

3. Page 5, line 1.

Following: "order"

Strike: "must specify the need to allow for"

Insert: "or proclamation may authorize"

4. Page 5, line 2.

Following: "medicine."

Insert: "The provisions of [section 6] do not apply to the state of disaster unless the order or proclamation includes a provision authorizing the practice of disaster medicine."

5. Page 5, line 19 through line 20.

Following: the second "injury" on line 19

Strike: remainder of line 19 through "EMERGENCY," on line 20

6. Page 5, line 21.

Following: "misconduct"

Insert: "and as a result of"

7. Page 5, line 22.

Following: line 21

Insert: "(a) an act or omission arising out of activities undertaken in response to the disaster or emergency;"

Renumber: subsequent subsections

8. Page 5, line 22.

Following: "(a)"

Strike: "as a result of"

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

9. Page 5, line 23.

Following: "(b)"

Strike: "as a result of"

10. Page 6, line 3.

Following: "SUBDIVISION"

Insert: "acting within the scope of the provider's employment or duties"

And, as amended, be concurred in. Report adopted.

HB 403, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

3/23/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 p.m., Saturday, March 21, 2009:

TITLE

NAME

Pages:

Chance Wilson, Scobey
Jackson Bolstad, Homestead
Jamie Balyeat, Bozeman
Danielle "Danie" Jacobs, Great Falls
Kelsey Barker, Augusta
Lillian Alvernaz, Glasgow
Sean Ryan, Great Falls

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 23, 2009:

TITLE

NAME

Pages:

Caitlin Caltabiano, Whitefish
Shelby DeMars, Dillon
Justin Schaaf, Glendive
Clive Ogle, White Sulphur Springs
Joshua Erger, Billings
Alexandra "Alex" Bronk, Darby

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

3/21/2009

SB 21, introduced by Story

SB 141, introduced by J. Tropila

SB 173, introduced by Murphy

SB 184, introduced by Balyeat

SB 197, introduced by Laslovich

SB 323, introduced by Erickson

SB 368, introduced by Erickson

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

SB 409, introduced by Brueggeman

House bills passed and transmitted to the Senate for concurrence: 3/21/2009

HB 246, introduced by Boniek

HB 425, introduced by Pomnichowski

Senate amendments to House bills concurred in: 3/21/2009

HB 324, introduced by Arntzen

HB 366, introduced by McGillvray

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 3/21/2009

SB 96, introduced by Jent

SB 269, introduced by R. Brown

SB 74, introduced by Laible

Conference Committee Report No.1 adopted: 3/21/2009

Senate bills returned **NOT CONCURRED** on third reading:

SB 299, introduced by J. Tropila

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 246, introduced by Boniek, Bennett, Butcher, Curtiss, Randall, Warburton, referred to Business, Labor, and Economic Affairs.

HB 425, introduced by Pomnichowski, referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laible in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 22 - Senator Murphy moved **SB 22** do pass. Motion carried as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 40

Nays: Bales, Balyeat, Esp, Hinkle, Jent, Keane, Laslovich, Stewart-Peregoy, J. Tropila.

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Total 9

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SB 244 - Senator Balyeat moved **SB 244** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Senator Windy Boy present at this time.

SB 446 - Senator Story moved **SB 446** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Barrett, Esp, Essmann, Hinkle, Laible, Tutvedt.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 495 - Senator Story moved **SB 495** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Total 43

Nays: Balyeat, R. Brown, Hinkle, Juneau, J. Tropila, M. Tropila, Wanzenried.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 498 - Senator Bales moved **SB 498** do pass. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Balyeat, Barkus, Esp, Hinkle, Jackson, Juneau, Kaufmann, Laible, Shockley.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 54 - Senator Hinkle moved **HB 54** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 146 - Senator Black moved **HB 146** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser,

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Barkus, Brenden, Esp, Hinkle.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 197 - Senator Balyeat moved **HB 197** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 221 - Senator Barkus moved **HB 221** be concurred in.

HB 221 - Senator Barkus moved **HB 221**, second reading copy, be amended as follows:

1. Title, page 1, line 8.

Strike: "HUNTING SEASON"

Insert: "LICENSE YEAR"

2. Page 3, line 8 through line 9.

Strike: "THE LAST" on line 8 through "SEASON" on line 9

Insert: "January 16 of a license year"

Strike: "THE" on line 9

Insert: "that"

3. Page 5, line 3 through line 4.

Strike: "THE LAST" on line 3 through "SEASON" on line 4

Insert: "January 16 of a license year"

Strike: "THE" on line 4

Insert: "that"

Amendment adopted as follows:

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Barrett, Juneau.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 221 - Senator Barkus moved **HB 221**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Erickson, Juneau, Kaufmann.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 243 - Senator McGee moved consideration of **HB 243** be passed for the day. Without objection, motion carried.

HB 317 - Senator J. Tropila moved **HB 317** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Total 0

HB 365 - Senator R. Brown moved **HB 365** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 593 - Senator Keane moved **HB 593** be concurred in.

HB 593 - Senator Gebhardt moved **HB 593**, second reading copy, be amended as follows:

1. Page 2.

Following: line 13

Insert: "(3) The person conducting the remedial action must have the landowner's consent before taking action under this section."

Renumber: subsequent subsection

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

HB 593 - Senator Keane moved **HB 593**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Jackson.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 622 - Senator Balyeat moved **HB 622** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 40

Nays: Barkus, Black, Esp, Gallus, Hinkle, Jackson, Keane, Peterson, Ripley, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator McGee assumed the chair.

SB 74 - Conference Committee Report No. 1 - Senator Laible moved the Conference Committee report to **SB 74** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laible moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 264 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 429 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Juneau, M. Tropila.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

SB 467 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 21 concurred in as follows:

Yeas: Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 44

Nays: Bales, Barkus, Essmann, Gebhardt, Tutvedt, Zinke.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 150 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 34

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, Wanzenried, Williams.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

HB 155 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 193 concurred in as follows:

Yeas: Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Bales, Balyeat, Barkus, Black, Brenden, McGee.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 195 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 48

Nays: Shockley, Windy Boy.

Total 2

Absent or not voting: None.

Total 0

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Excused: None.
Total 0

HB 291 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Esp, Essmann, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 307 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Barkus, R. Brown, Hawks, Hinkle, McGee, Shockley.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 322 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Excused: None.
Total 0

HB 326 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Esp, Gallus.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 354 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 372 concurred in as follows:

Yeas: Balyeat, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Bales, Barkus, Barrett, Hinkle, McGee, Ripley, Steinbeisser.
Total 7

Absent or not voting: None.

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Total 0

Excused: None.

Total 0

HB 387 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Essmann.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 397 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 407 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

SENATE JOURNAL
SIXTY-FOURTH LEGISLATIVE DAY - MARCH 23, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 621 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 46

Nays: Hinkle, McGee, Shockley, Windy Boy.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Barkus introduced the Pages for the week of March 23-28, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, March 24, 2009. Motion carried.

Senate adjourned at 2:45 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
March 24, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

3/24/2009

Correctly printed: **SB 22, SB 244, SB 446, SB 495, SB 498, HB 54, HB 146, HB 197, HB 317, HB 365, HB 403, HB 622.**

Correctly engrossed: **SB 234, SB 370, SB 379, HB 85, HB 123, HB 177, HB 221, HB 269, HB 362, HB 375, HB 409, HB 557, HB 593, HJR 4, HJR 33.**

Correctly enrolled: **SB 82, SB 208, SB 209, SB 273, SB 319, SB 325, SB 341, SB 395, SB 432, SJR 22.**

Delivered to the Secretary of State at 9:46 a.m., March 24, 2009: **SR 9.**

Signed by the Speaker at 1:30 p.m., March 24, 2009: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409.**

Signed by the Secretary of the Senate at 3:45 p.m., March 23 2009: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409, SR 9.**

Signed by the President at 4:25 p.m., March 23, 2009: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409, SR 9.**

Examined by the sponsor and found to be correct: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409, SR 9.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

3/24/2009

HB 71, be concurred in. Report adopted.

HB 104, be concurred in. Report adopted.

HB 107, be concurred in. Report adopted.

HB 112, be concurred in. Report adopted.

HB 123, be amended as follows:

1. Title, page 1, line 10.

Following: "DATES"

Insert: "AND A TERMINATION DATE"

2. Page 4, line 7.

Strike: "2 and 3"

Insert: "2, 3, and 5"

3. Page 4, line 8.

Insert: "NEW SECTION. **Section 5. Termination.** [Section 1] terminates June 30, 2012."

And, as amended, be concurred in. Report adopted.

HB 127, be concurred in. Report adopted.

HJR 33, be amended as follows:

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

1. Page 2, lines 2 and 3.

Following: "to the" on line 2

Strike: remainder of line 2 through "Treasury," on line 3

Insert: "Director of the Office of Management and Budget"

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/23/2009

HB 466, be concurred in. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):

3/24/2009

SB 370, introduced bill, be amended as follows:

1. Title, page 1, line 5.

Strike: "EXEMPTING" through "FEE;"

2. Title, page 1, line 7.

Following: "15-38-113,"

Insert: "82-4-405, 82-4-424,"

3. Page 2, line 27.

Strike: "or"

4. Page 2, line 28.

Following: "Title"

Strike: "84"

Insert: "82"

5. Page 2, line 29.

Following: "82-4-437(2)"

Insert: "; or"

6. Page 2.

Following: line 29

Insert: "(4) a county, city, or town that holds a permit pursuant to Title 82, chapter 4, part 4"

Insert: "**Section 4.** Section 82-4-405, MCA, is amended to read:

"82-4-405. Inapplicability to government. ~~The~~ (1) Except as provided in subsection (2), the provisions of this part relating to fees or bonds do not apply to the federal government or its agencies, the state of Montana, counties, cities, or towns.

(2) Counties, cities, and towns are responsible for the fee required pursuant to 82-4-437(2)."

"Section 5. Section 82-4-424, MCA, is amended to read:

"82-4-424. Receipt and expenditure of funds -- disposition of penalties and other money. (1) The department may receive any federal funds, state funds, or any other funds for the reclamation of affected land. The department may cause the reclamation work to be done by its employees, by employees of other governmental agencies, by soil conservation districts, or through contracts with qualified persons.

(2) All penalties and other money paid under the provisions of this part, except annual fees, must be deposited in the environmental rehabilitation and response account in the state special revenue fund provided for in 75-1-110. Funds held by the department as bond or as a result of bond forfeiture that are no longer needed for reclamation and for which the department is not able to locate a surety or other person who owns the funds after

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

diligent search must be deposited in the environmental rehabilitation and response account in the state special revenue fund."

Renumber: subsequent sections

7. Page 3, line 5.

Strike: "Except" through "each"

Insert: "Each"

8. Page 3.

Following: line 11

Insert: "NEW SECTION. Section 9. Retroactive applicability. The exemption provided for in 15-38-113(4) applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2000, for counties, cities, and towns."

And, as amended, do pass. Report adopted.

HB 161, be concurred in. Report adopted.

HB 375, be amended as follows:

1. Page 2, line 14 through line 15.

Strike: "president of the senate"

Insert: "committee on committees"

And, as amended, be concurred in. Report adopted.

HB 557, be amended as follows:

1. Page 1, line 24.

Following: "storage"

Insert: ", "

2. Page 1, line 25.

Following: "PUMPING"

Insert: ", "

Strike: "60"

Insert: "40"

And, as amended, be concurred in. Report adopted.

HJR 4, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "ADOPT" on line 6 through "REGARDING" on line 7

Insert: "INCREASE"

2. Page 1, line 21 through line 22.

Strike: "the" on line 21 through "enact" on line 22

3. Page 1, line 22.

Following: "legislation"

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Insert: "is needed"

4. Page 1, line 25.

Strike: "would be required to"

Insert: "should"

5. Page 1, line 26.

Strike: "would"

Insert: "should"

6. Page 1, line 27.

Strike: "would"

Insert: "should"

7. Page 2, line 5 through line 6.

Strike: "adopting" on line 5 through "regarding" on line 6

Insert: "increasing"

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):
HB 85, be amended as follows:

3/24/2009

1. Title, page 1, line 11.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 3, line 5.

Following: "department"

Insert: "of public health and human services"

3. Page 5, lines 3 through 5.

Following: "if it is" on line 3

Strike: ":" on line 3 through "(b)" on line 5

Insert: "either"

Following: "7-1-4121,"

Strike: "that"

Insert: "and"

Following: "employs"

Insert: "the majority of its"

4. Page 5, lines 11 and 12.

Strike: "FIVE PERCENT" on line 11

Insert: "Up to 5%"

Strike: "MUST BE HELD" on line 11 through "TO" on line 12

Insert: "may"

Following: "PURPOSES"

Strike: "ONLY"

Insert: "each year"

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

5. Page 5.

Following: line 20

Insert: "(b) one member of the department of public health and human services;"

Renumber: subsequent subsections

6. Page 9, line 22.

Insert: "NEW SECTION. **Section 13. Termination.** [Sections 1 through 8] terminate June 30, 2011."

And, as amended, be concurred in. Report adopted.

HB 409, be amended as follows:

1. Page 9, line 28.

Following: "~~(1)~~"

Insert: "(1)"

2. Page 10.

Following: line 11

Insert: "(2) Except as provided in subsection (3):

(a) a person or entity, including the manufacturer of a cancer drug or device that exercises reasonable care in donating, accepting, distributing, or dispensing a cancer drug or device under the provisions of [sections 1 through 3] and rules adopted by the board, is immune from civil or criminal liability or professional disciplinary action of any kind for an injury, death, or loss to a person or property relating to the accepting, distributing, or dispensing of the cancer drug or device;

(b) a person or entity, unless directly negligent, is not liable for the negligence or lack of care of other persons or entities and is entitled to the immunity of this part.

(3) (a) The donation of a cancer drug or device by the manufacturer of the drug or device does not absolve the manufacturer from criminal or civil liability or increase a liability that would have existed had the drug or device not been donated.

(b) The civil immunity provisions of subsection (2) do not apply to a person employed by or an entity operated by the state or a political subdivision of the state."

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

3/24/2009

HB 12, be concurred in. Report adopted.

HB 144, be concurred in. Report adopted.

HB 170, be concurred in. Report adopted.

HB 509, be concurred in. Report adopted.

HB 626, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 23**
Report No. 1, March 24, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 23** (reference copy -- salmon)

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 23** (reference copy -- salmon) be amended as follows:

1. Title, line 7.

Strike: "APPLICABILITY"

Insert: "IMMEDIATE EFFECTIVE"

2. Page 2, line 8 through line 9.

Strike: section 3 in its entirety

Insert: "NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval."

For the House:

D. Brown
Himmelberger
McAlpin
Phillips

For the Senate:

Gallus
Gebhardt

MESSAGES FROM THE GOVERNOR

March 24, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 171, "**AN ACT** " for the following reasons.

House Bill 171, as passed by the legislature, repeals all state regulation of professional and semiprofessional combative events. Those events include boxing, wrestling, mud wrestling, martial arts, and other combative events. My proposed amendments would retain state regulation of professional boxing, only, which will have the effect of allowing professional boxing events in Montana to be held in conformity with national safety standards for boxing. Without such amendments, the concern is that any professional boxing events in Montana would go unregulated and would not be recognized nationally. None of the other combative events currently regulated by the state have federal safety counterparts.

I have discussed the amendments with the bill's sponsor, Representative Augare, who has no objection.

Sincerely,

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 171

2. Title, line 5.

Following: "ACT"

Strike: "REPEALING"

Insert: "RETAINING THE REGULATION OF PROFESSIONAL BOXING AND ELIMINATING ALL OTHER"

3. Title, line 6.

Strike: "SECTION 2-6-109, MCA; REPEALING"

4. Title, line 7.

Following: "23-3-602,"

Insert: "AND"

Strike: "AND 23-3-611,"

5. Page 1, line 12 through page 2, line 17.

Strike: everything after the enacting clause

Insert: "Section 1. Section 23-3-301, MCA, is amended to read:

"23-3-301. **Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) ~~"Combative events" means a match, exhibition, contest, show, or tournament involving contestants in boxing, wrestling, mud wrestling, martial arts, or any other combative practice as defined by the department by rule.~~

(2)(1) ~~"Contestant" means a professional or semiprofessional practitioner of boxing, wrestling, mud wrestling, martial arts, or any other combative practice as defined by the department by rule.~~

(3)(2) ~~"Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.~~

(3) "Professional boxing" means a match, exhibition, contest, show, or tournament involving the sport of professional boxing as defined by the department by rule, consistent with federal law governing boxing safety.

(4) "Program" means a set of operations governed by the statutes in this chapter and the rules adopted by the department under this chapter."

{Internal References to 23-3-301: None.}"

Insert: "Section 2. Section 23-3-402, MCA, is amended to read:

"23-3-402. **Enforcement of rules.** (1) The department may designate in writing a representative to act specifically on behalf of the department but only within the scope of the written authority.

(2) The representative shall attend and supervise a combative professional boxing event and has the authority from the department to enforce rules adopted under this chapter."

{Internal References to 23-3-402: None.}"

Insert: "Section 3. Section 23-3-404, MCA, is amended to read:

"23-3-404. **Jurisdiction -- license required -- contestant participation.** (1) The department has sole management, control, and jurisdiction over each professional ~~or semiprofessional combative~~ boxing event involving recognition, a prize, or a purse and at which an admission fee is charged, either directly or indirectly, in the form of dues or otherwise, to be held within the state, ~~except a combative event conducted:~~

—— (a) ~~by a university, college, or high school; or~~

—— (b) ~~by the military.~~

(2) An organization or individual may not conduct a combative professional boxing event within the department's jurisdiction unless the organization or individual is the holder of an appropriate license granted by the department.

(3) A referee, manager, or judge may not participate in a combative professional boxing event within the

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

department's jurisdiction unless:

- (a) the individual is licensed by the department; and
- (b) the ~~combative~~ professional boxing event is conducted by an organization or individual licensed by the department.

(4) A contestant may not participate in a ~~combative~~ professional boxing event within the department's jurisdiction unless:

- (a) the contestant is licensed by the department;
- (b) the ~~combative~~ professional boxing event is conducted by an organization or individual licensed by the department; and
- (c) the department has not suspended the right of the contestant to participate under 23-3-603."

{Internal References to 23-3-404: None.}"

Insert: "Section 4. Section 23-3-405, MCA, is amended to read:

"23-3-405. Rules. (1) The department may adopt rules for the administration and enforcement of this chapter.

(2) (a) The rules must include the granting, suspension, and revocation of licenses and the qualification requirements for those to be licensed to conduct ~~combative~~ professional boxing events or to be licensed as referees, managers, or judges. License qualifications must include appropriate knowledge, experience, and integrity.

(b) The rules may include but are not limited to the following:

- (i) the labeling of a match as a championship match;
- (ii) the number and length of rounds and the weight of gloves;
- (iii) the extent and timing of the physical examination of contestants;
- (iv) the attendance of a referee and the referee's powers and duties; and
- (v) review of decisions made by officials.

(3) The rules must:

(a) meet or exceed the safety codes required by recognized professional boxing, ~~wrestling, and other~~ organizations conducting ~~combative~~ professional boxing events;

(b) provide reasonable measures for the fair conduct of the ~~combative~~ professional boxing events and for the protection of the health and safety of the contestants;

(c) require a physical examination of each contestant prior to each ~~combative~~ professional boxing event;

(d) provide for the qualifications of judges, referees, and seconds and for their payment by the promoter; and

(e) provide for the attendance at ringside of one or more of the following and require the promoter to pay for that person's attendance:

- (i) a licensed physician as defined in 37-3-102;
- (ii) a licensed physician assistant as defined in 37-20-401; or
- (iii) a licensed advanced practice registered nurse as defined in 37-8-102."

{Internal References to 23-3-405: None.}"

Insert: "Section 5. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses -- fees. (1) The department may issue a license to a professional ~~or semiprofessional~~ promoter of ~~combative~~ professional boxing events, whether an individual or organization, for the sole purpose of conducting professional ~~or semiprofessional combative~~ boxing events.

(2) The department may issue licenses to qualified referees, managers, contestants, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, as provided in 37-1-134, set by the department."

{Internal References to 23-3-501: None.}"

Insert: "Section 6. Section 23-3-502, MCA, is amended to read:

"23-3-502. Bond -- conditions. (1) A license to conduct professional ~~or semiprofessional combative~~ boxing events may not be issued unless the licensee has executed a bond in the sum of not less than \$5,000.

(2) The bond must be conditioned on faithful compliance by the licensee with the provisions of this chapter and the rules of the department."

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

{Internal References to 23-3-502: None.}"

Insert: "Section 7. Section 23-3-601, MCA, is amended to read:

"23-3-601. Report of ticket sales -- tax on gross receipts -- disposition of money received. (1) An individual or organization licensed to conduct a ~~combative~~ professional boxing event shall, within 24 hours after the completion of each ~~combative~~ event, furnish to the department a written report, verified by one of its officers or owners, showing the number of tickets sold for the ~~combative~~ event, the amount of gross proceeds, and other matters that the department prescribes and shall also within 24 hours pay to the department a tax of 5% of its total gross receipts after deducting the federal admission tax, if any, from the sale of tickets.

(2) All taxes and fees collected by the department under this chapter must be deposited in the state special revenue fund for the use of the program, subject to 37-1-101(6)."

{Internal References to 23-3-601:

23-3-602 X}"

Insert: "Section 8. Section 23-3-602, MCA, is amended to read:

"23-3-602. Examination of books and records on failure to make report or on unsatisfactory report -- penalty for failure to pay tax. (1) If an individual or organization fails to make a report of a ~~combative~~ professional boxing event at the time prescribed by 23-3-601 or if the report is unsatisfactory to the department, the department may examine the books and records of the individual or organization and subpoena and examine witnesses under oath for the purpose of determining the total amount of its gross receipts for a ~~combative~~ professional boxing event and the amount of tax due under this chapter.

(2) If the individual or organization remains in default in the payment of tax ascertained to be due for a period of 20 days after notice to the individual or organization of the amount due, the delinquent individual or organization forfeits its license and is disqualified from receiving a new license."

{Internal References to 23-3-602: None.}"

Insert: "Section 9. Section 23-3-603, MCA, is amended to read:

"23-3-603. Discipline. (1) A license issued under the provisions of this chapter may, after notice and opportunity for hearing, be revoked or suspended by the department for a violation of the provisions of this chapter or any rule of the department.

(2) The department may, after notice and opportunity for hearing, reprimand any contestant or suspend, for a period not to exceed 1 year, the contestant's right to participate in any ~~combative~~ professional boxing event conducted by any licensee for:

(a) conduct unbecoming a contestant while engaged in or arising directly from any ~~combative~~ professional boxing event;

(b) failure to compete in good faith or engaging in any sham ~~combative~~ professional boxing event; or

(c) the use of threatening or abusive language toward officials or spectators."

{Internal References to 23-3-603:

23-3-404 x}"

Insert: "NEW SECTION. Section 10. {standard} Effective date. [This act] is effective on passage and approval."

March 23, 2009

The Honorable Robert Story
President, Montana State Senate
Capitol Station
Helena, Montana 59620

Dear President Story:

Attached is a list of appointments requiring confirmation by the Montana State Senate. We have supplied the following information for appointees:

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Reference to statute, and a brief description of the statute where appropriate
Name, address, and phone number(s) for each board or commission appointee
Appointee qualifications and term of appointment for boards and commissions
Brief biographies or resumes

Additional information, including a complete list of gubernatorial appointees, is available online at:
<http://boards.mt.gov/> or at <http://governor.mt.gov>. Meanwhile, please don't hesitate to contact our office if my staff or I can be of assistance to you.

Sincerely yours,

BRIAN SCHWEITZER
Governor

Directors and Other Council Members

The following individuals have been appointed as Directors of state agencies in accordance with Montana Code Annotated 2-15-111. (Their resumes are attached.)

- Anthony Preite, Director of the Department of Commerce
- Mike Ferriter, Director of the Department of Corrections
- Richard Oppen, Director of the Department of Environmental Quality
- Joe Maurier, Director of the Department of Fish, Wildlife and Parks
- Mary Sexton, Director of the Department of Natural Resources and Conservation
- Anna Whiting-Sorrell, Director of the Department of Public Health and Human Services
- Dan Bucks, Director of the Department of Revenue

In addition, the following are appointed as council members of the Northwest Power and Conservation Council, in accordance with Montana Code Annotated 2-15-111. (Their resumes are attached.)

- Rhonda Whiting

Montana Arts Council -- 22-2-102, Montana Code Annotated

The council consists of 15 members appointed by the governor for 5-year terms. Where possible, members are to come from various geographical areas and have a keen interest in the arts. The governor designates a chair and a vice chair.

Mark Kuipers, 4770 Duncan Dr, Missoula MT 59802 (Member)

Contact Phone(s): 406-327-9990,

Appointment date: 3/23/2009; Term ends: February 1, 2010

Qualification: public representative

Kuipers owns MAK Direct, a marketing firm operating out of Missoula and California. He has a BA in sociology and American studies from Western Michigan University, a master's degree in English/American studies from Washington State University and an MBA from Washington State University. His clients include TIVO, Best Buy, Ancestry.com, Patagonia, Safeway and many others.

Board of Barbers and Cosmetologists -- 2-15-1747, Montana Code Annotated

The board consists of nine members who serve staggered, 5-year terms: three licensed cosmetologists; one licensed electrologist, esthetician, or manicurist; three licensed barbers and two members of the public who are not engaged in the practice of barbering, cosmetology, electrology, esthetics, or manicuring. Not more than two members of the

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

board may be members of or affiliated with a school.

Thayne Orton, 5349 Maverick Way, Florence MT 59833 (Member)

Contact Phone(s): 406-273-0248, 406-273-6595

Appointment date: 3/20/2009; Term ends: October 1, 2012

Qualification: barber

Orton has been in the barber profession since 1975, and has owned Thayne's Prime Cuts for 30 years. He's active in the Lone Rock Bible Church.

Board of Crime Control -- 2-15-2006, Montana Code Annotated

The board is designated as a quasi-judicial board and consists of 18 members. Statute calls for representatives of state and local law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime and representatives of citizens and professional and community organizations, including organizations directly related to delinquency prevention.

Angela Russell, PO Box 333, Lodge Grass MT 59050 (Member)

Contact Phone(s): 406-638-4052, 406-638-4050

Appointment date: 3/23/2009; Term ends: January 1, 2011

Qualification: tribal court representative

Russell is a lawyer and a judge for the Crow Tribe. She has a social work degree from Tulane University and her JD from the University of Montana. She is a former legislator who served on the Judiciary Committee.

Montana Historical Society Board of Trustees -- 22-3-104, Montana Code Annotated

The board has 15 trustees who serve staggered, 5-year terms. The Governor is encouraged to use geographical diversity in making appointments, while appointing trustees who have an interest in the Montana Historical Society, who are fit to discharge their duties and are willing to devote time and effort in the public interest. One member shall be a recognized historian and one member shall be a recognized archaeologist.

Lee Rostad, 169 Bozeman Fork Rd, Martinsdale MT 59053 (Member)

Contact Phone(s): , 406-220-5528

Appointment date: 7/1/2009; Term ends: July 1, 2014

Qualification: public member

Rostad was a Fulbright Scholar and studied at the University of London. She has a BA in history and political science from the University of Montana. She was a teacher in Great Falls, Japan, White Sulphur Springs and Helena, and also operated the family ranch with her husband. She has served in leadership spots in numerous organizations, including the Charles M. Bair Family Trust and the Montana Committee for the Humanities.

Jim Utterback, 1923 Lime Kiln Rd, Helena MT 59601 (Member)

Contact Phone(s): , 406-442-3336

Appointment date: 7/1/2009; Term ends: July 1, 2014

Qualification: public member

Utterback is a partner and director of CSI Financial Services, LLC. Prior to CSI, Utterback owned three auto dealerships in Montana. He has served as director for First Bank Helena, State National Bank El Paso, St. Peter's Hospital and Shepard Trucking, Inc. Utterback has also served in leadership positions with the Helena Chamber of Commerce.

Jim Court, 18 Heatherwood Lane, Billings MT 59102 (Member)

Contact Phone(s): , 406-259-5099

Appointment date: 7/1/2009; Term ends: July 1, 2014

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Qualification: public member

Court was superintendent of the Little Big Horn (Custer) Battlefield from 1978-1986. He now operates a tour business, focusing on the battlefield and surrounding areas. His 27 years of National Park experience include assignments at Rocky Mountain, Yellowstone, Big Bend and Mesa Verde National Parks.

Steve Carney, PO Box 1122, Scobey MT 59263 (Member)

Contact Phone(s): 406-893-4476, 406-487-2081

Appointment date: 3/23/2009; Term ends: July 1, 2012

Qualification: public member

Carney has a political science degree from the University of Montana. He's a farmer-developer, and is a director of Cenex Harvest States and served on the ASCS County Committee. He has also served as director and vice chair of the Daniels Memorial Hospital.

Board of Nursing Home Administrators -- 2-15-1735, Montana Code Annotated

The board consists of five members who serve staggered 5-year terms: three are nursing home administrators; one represents the public at large and must be 55 years of age or older at the time of appointment and two must be representatives of professions or institutions concerned with the care of chronically ill and infirm aged patients and may not be from the same profession or have a financial interest in a nursing home.

Loren Hines, Highlands Hospice, 3703 Harrison Ave, Butte MT 59701 (Member)

Contact Phone(s): 406-533-0020,

Appointment date: 5/28/2009; Term ends: May 28, 2014

Qualification: representative of an institution caring for chronically ill or aged

Hines has a bachelor of science degree in nursing from Montana State University. He is the patient care coordinator for Highlands Hospice, and serves as the senior director of clinical services for Easter Seals-Goodwill Northern Rocky Mountain region. Hines also is a member of the St. James Healthcare Ethics Committee and a member of its governing board.

Board of Physical Therapy Examiners -- 2-15-1748, Montana Code Annotated

The board consists of five members who serve 3-year terms (maximum of two consecutive terms): three licensed physical therapists who have been actively engaged in the practice of physical therapy for the 3 years preceding appointment to the board; one licensed physician, who has been actively engaged in the practice of medicine for the 3 years preceding appointment to the board; and one member of the general public who is not a physician or a physical therapist. Each member must have been a resident of Montana for the 3 years preceding appointment to the board.

Kim Miller, PO Box 32, Virginia City MT 59755 (Member)

Contact Phone(s): , 406-843-5888

Appointment date: 7/1/2009; Term ends: July 1, 2012

Qualification: public member

Miller is the owner of Aunt Julia's Emporium, and previously worked as a grant writer/administrator for Madison County. She has a degree in sociology from the University of Montana.

Patti Jo Lane, 1101 26th St S, Great Falls MT 59405 (Member)

Contact Phone(s): 406-455-5000, 406-268-1655

Appointment date: 7/1/2009; Term ends: July 1, 2012

Qualification: physical therapist

Lane has worked as a physical therapist in the private sector, the academic field and in a hospital setting. She has also managed a medical clinic. She has been a licensed physical therapist since 1993.

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Board of Private Security -- 2-15-1781, Montana Code Annotated

The board consists of seven voting members who serve staggered 3-year terms: one contract security company or proprietary security organization, as defined by statute; one electronic security company, as defined by statute; one city police department; one county sheriff's office; one member of the public; one member of the peace officers' standards and training advisory council (renamed the Public Safety Officer Standards and Training Council by the 2007 legislature); and a licensed private investigator or a registered process server. Members must be at least 25 years of age and have been residents of this state for more than 5 years.

Daniel Taylor, 120 Cherry Creek St, Glasgow MT 59230 (Member)

Contact Phone(s): 406-228-4998, 406-263-1190

Appointment date: 3/20/2009; Term ends: August 1, 2009

Qualification: contract security company representative

Taylor is the owner of Hi-Line Security, Inc. He was with the Valley County Sheriff's Department from 1968-1994 and served as the county sheriff for 22 years. He graduated from the National Sheriff Academy and the Montana Law Enforcement Academy.

Professional Engineers and Land Surveyors -- 2-15-1763, Montana Code Annotated

The board consists of nine members, each of whom must be a United States citizen and Montana resident, and who serve staggered 4-year terms (maximum of 3 consecutive terms): five professional engineers (no more than two from the same branch of engineering) who have been engaged in the practice of engineering for at least 12 years and who have been in responsible charge of engineering teaching or important engineering work for at least 5 years and licensed in Montana for at least 5 years; two professional and practicing land surveyors who have been engaged in the practice of land surveying for at least 12 years and who have been in responsible charge of land surveying or important land surveying work for at least 5 years and licensed in Montana for at least 5 years; and two representatives of the public who are not engaged in or directly connected with the practice of engineering or land surveying.

John Neil, 2750 Evergreen Dr., Great Falls MT 59404 (Member)

Contact Phone(s): 406-453-5478, 406-727-2518

Appointment date: 7/1/2009; Term ends: July 1, 2013

Qualification: licensed civil engineer

Neil is a consulting civil engineer with NCI Engineering Co. He's a graduate of Montana State University (civil engineering), and is a member of the American Society of Civil Engineers and the Wastewater Environmental Federation.

Tom Heinecke, P.O. Box 8057, Kalispell MT 59901 (Member)

Contact Phone(s): 406-752-2216,

Appointment date: 7/1/2009; Term ends: July 1, 2013

Qualification: licensed mechanical engineer

Heinecke is a mechanical engineer with Morrison-Maierle. He is certified to do energy audits, and is also a certified asbestos inspector and management planner. Heinecke has also served on the board of the Montana Society of Engineers.

Board of Real Estate Appraisers -- 2-15-1758, Montana Code Annotated

The board consists of seven members who serve staggered 3-year terms (maximum of two consecutive terms). Five members are licensed or certified real estate appraisers, and two members are representatives of the public are not engaged in the occupation of real estate appraisal.

Kathleen Susan Gallaher, 516 E. Lamme St, Bozeman MT 59715 (Member)

Contact Phone(s): 406-585-3924, 406-587-8447

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Appointment date: 5/1/2009; Term ends: May 1, 2012

Qualification: public representative

Gallagher is a real estate lender with First Security Bank where she is the chairperson of the bank's appraisal committee. She has a sociology degree from Montana State University. She has also served on the boards of Energy Share and Heart of the Valley Animal Shelter.

Darwin Ernst, 702 W. Desta St, Hamilton MT 59840 (Member)

Contact Phone(s): 406-363-7008, 406-239-2222

Appointment date: 5/1/2009; Term ends: May 1, 2012

Qualification: real estate appraiser

Ernst is a member of the Montana Cadastral Technical Advisory Team and the Bitterroot Board of Realtor's technology committee. He's a certified residential appraiser and operates Darwin Ernst Appraisal Services, Inc. He has a BA in biology from Concordia College.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/23/2009

HB 42, introduced by Vincent

HB 154, introduced by Bergren

Senate amendments to House bill concurred in: 3/23/2009

HB 41, introduced by Cohenour

Senate bills concurred in and returned to the Senate: 3/23/2009

SB 82, introduced by Steinbeisser

SB 208, introduced by Lewis

SB 209, introduced by Laslovich

SB 273, introduced by Laslovich

SB 319, introduced by Keane

SB 325, introduced by Perry

SB 341, introduced by Laslovich

SB 395, introduced by Gebhardt

SB 432, introduced by R. Brown

Senate joint resolution concurred in and returned to the Senate: 3/23/2009

SJR 22, introduced by Zinke

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 3/23/2009

SB 26, introduced by Murphy

SB 108, introduced by Jent

SB 171, introduced by Barkus

Conference Committee Report No.1 adopted: 3/23/2009

SB 74, introduced by Laible

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Senator Bob Story
President of the Senate
Capitol Building
Helena, MT 59601

March 23, 2009

Mr. President:

I am directed by the House of Representatives to request the return of **SB 299** to the House of Representatives.

The House has voted to reconsider its action on third reading and wishes to further consider **SB 299**.

Sincerely,

David L. Hunter
Chief Clerk of the House

MOTIONS

Senator Peterson moved that a Free Conference Committee be appointed for **SB 79** and requested that the House appoint a like committee. Motion carried. President Story appointed Senator Murphy (Chair), Senator Juneau, and Senator Laible. (House amendment to **SB 79 not concurred in** on March 28, 2009.)

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 18, introduced by Steinbeisser (by request of Senate Agriculture, Livestock, and Irrigation Standing Committee), referred to Agriculture, Livestock and Irrigation.

The following House bills were introduced, read first time, and referred to committees:

HB 42, introduced by Vincent (by request of the Fire Suppression Committee), referred to Fish and Game.

HB 154, introduced by Bergren (by request of the Office of Budget and Program Planning), referred to Fish and Game.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 22 passed as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Nays: Bales, Balyeat, Esp, Hinkle, Keane, Laslovich, J. Tropila.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 244 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 446 passed as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Barrett, Esp, Essmann, Hinkle, Tutvedt.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 495 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Total 42

Nays: Balyeat, R. Brown, Hinkle, Juneau, Schmidt, J. Tropila, M. Tropila, Wanzenried.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 498 passed as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Nays: Balyeat, Barkus, Esp, Hinkle, Jackson, Juneau, Kaufmann, Shockley.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 74 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 54 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau,

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 146 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Barkus, Black, Brenden, Esp, Hinkle, Perry.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 197 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

HB 317 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 365 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 622 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 40

Nays: Barkus, Black, Esp, Gallus, Gebhardt, Hinkle, Keane, McGee, Ripley, Mr. President.
Total 10

Absent or not voting: None.
Total 0

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 243 - Senator McGee moved **HB 243** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 63 - Senator Laible moved **SB 63** do pass. Motion **failed** as follows:

Yeas: Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Jent, Kaufmann, Laslovich, McGee, Peterson, Ripley, Squires, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 63 - Senator J. Peterson moved **SB 63** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp,

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Essmann, Gebhardt, Hinkle, Jackson, Jent, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 25

Nays: Balyeat, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 183 - Senator Balyeat moved **SB 183** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hamlett, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Mr. President.
Total 23

Nays: Branae, T. Brown, Cooney, Erickson, Essmann, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 183 - Senator Williams moved **SB 183** be **indefinitely postponed**. Motion carried as follows:

Branae, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Ripley, Shockley, Steinbeisser, Zinke.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

SB 217 - Senator Debby Barrett moved **SB 217** do pass. Motion **failed** as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 25

Nays: Branae, R. Brown, T. Brown, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 217 - Senator Williams moved **SB 217** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 402 - Senator J. Peterson moved **SB 402** do pass.

SB 402 - Senator J. Peterson moved **SB 402**, second reading copy, be amended as follows:

1. Page 1, line 30.

Strike: "goodwill and ongoing concern"

2. Page 2, lines 1 and 2.

Strike: subsection (g) in its entirety

Renumber: subsequent subsections

3. Page 2, line 22.

Following: "AUTHORIZATION"

Insert: ", including requirements imposed by federal law"

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

4. Page 2.

Following: line 27

Insert: "(5) In order to be protected under subsection (2), the property interests described in subsection (1) must be owned by the claimant at the time of the government action for which a taking is being claimed. In the case of a business interest, the business must have been authorized by law and must have been in existence at the time of the government action for which a taking is being claimed."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 402 - Senator J. Peterson moved **SB 402**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 31

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 245 - Senator Balyeat moved **SB 245**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams,

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 291 - Senator Black moved **SB 291** do pass.

SB 291 - Senator Black moved **SB 291**, second reading copy, be amended as follows:

1. Page 6, line 3.

Strike: "(A)"

2. Page 6, lines 4 through 6.

Following: "facilities," on line 4

Strike: "other than"

Insert: "including"

Following: "track" on line 4

Strike: remainder of line 4 through "COMPANY" on line 6

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 291 - Senator Black moved **SB 291**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Hamlett, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke.

Total 26

Nays: Branae, Cooney, Esp, Gallus, Gebhardt, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 303 - Senator Wanzenried moved **SB 303** do pass. Motion carried as follows:

Yeas: Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 43

Nays: Bales, Balyeat, Barrett, Brenden, R. Brown, Esp, Zinke.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate recess until 5:15 p.m., this day. Motion carried.

Senate in recess.

Senate reconvened at 5:15 p.m.

Roll Call. All members present, except Senator T. Brown and Senator Stewart-Peregoy. Quorum present.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

3/24/2009

HB 404, be concurred in. Report adopted.

HB 451, be concurred in. Report adopted.

HB 542, be concurred in. Report adopted.

HB 544, be amended as follows:

1. Title, page 1, line 6.

Strike: "UNUSED"

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Insert: "UNEARNED"

2. Page 1, line 12.

Strike: "unused"

Insert: "unearned"

3. Page 1, line 14.

Strike: "unused"

Insert: "unearned"

4. Page 1, line 14.

Following: "premium."

Insert: "The disability insurer may consider premium to be earned only on a calendar month basis."

And, as amended, be concurred in. Report adopted.

HB 567, be amended as follows:

1. Page 9, line 25.

Following: "franchisee"

Insert: "or another new motor vehicle dealer of the franchisor in the area"

2. Page 9, line 28.

Following: "(8)"

Insert: "or another new motor vehicle dealer of the franchisor in the area"

3. Page 14, line 21 through line 22.

Following: "dealer"

Strike: "₂" on line 21 through the first "dealer," on line 22

And, as amended, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

3/24/2009

HB 98, be concurred in. Report adopted.

HB 483, be concurred in. Report adopted.

HB 529, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

3/24/2009

SB 489, introduced bill, be amended as follows:

1. Page 2, line 19.

Strike: "injection" through "natural gas"

Insert: "interconnection with a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission"

2. Page 2, line 26.

Following: line 25

Insert: "(6) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services to

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be aggregated for purposes of determining the 500-mile threshold."

3. Page 3, line 12.

Following: "utilities,"

Insert: "rate-regulated"

Following: "gas"

Insert: "transmission"

4. Page 3, line 13.

Strike: "or common carrier pipelines"

Insert: "a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(6)"

5. Page 4, line 2.

Strike: "consisting of"

Insert: "including but not limited to"

6. Page 4, line 4.

Following: "(b)"

Insert: "rate-regulated"

Following: "gas"

Insert: "transmission"

7. Page 4, line 6.

Following: "pipelines"

Insert: "as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C. 15101(2)"

8. Page 4.

Following: line 7

Insert: "(e) the gas gathering facilities specified in 15-6-138(6);"

Renumber: subsequent subsections

9. Page 4, line 24.

Following: "a"

Insert: "rate-regulated"

Following: "gas"

Insert: "transmission"

Following: "oil"

Insert: "transmission"

10. Page 4, line 25.

Following: "pipeline"

Insert: "as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15101(2)"

And, as amended, do pass. Report adopted.

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

TAXATION (Essmann, Chairman):

3/24/2009

SB 490, introduced bill, be amended as follows:

1. Title, line 6.

Strike: "\$5 MILLION"

Insert: "\$20,000"

Following: "LESS"

Insert: "AND ONE-THIRD OF THE MARKET VALUE BETWEEN \$20,000 AND \$5 MILLION"

2. Title, line 8.

Strike: "\$5 MILLION"

3. Page 5, line 18.

Strike: "\$5 million"

Insert: "\$20,000"

4. Page 5, line 20.

Following: "taxation"

Insert: "[and 33 1/3% of market value between \$20,000 and \$5 million is exempt from taxation]"

5. Page 6, line 22.

Strike: "first \$5 million or less of"

6. Page 15, line 26 through line 29.

Strike: "If" on line 26 through "void." on line 29

Insert: "If House Bill No. 2 is passed and approved and does not contain a line item appropriation designating funding for the reimbursement of the exemption provided in the bracketed language in [section 3] amending 15-6-138(4), then the bracketed language is void."

And, as amended, do pass. Report adopted.

SB 503, introduced bill, be amended as follows:

1. Page 2, line 5.

Strike: "November"

Insert: "January"

2. Page 6, line 18.

Strike: "of a Montana business, such as"

Insert: "held for investment or the production of income by a Montana farm, ranch, or business, whether organized as a C. corporation, S. corporation, partnership, limited liability company, other pass-through entity, trust, or sole proprietorship, including but not limited to"

And, as amended, do pass. Report adopted.

SB 506, introduced bill, be amended as follows:

1. Title, line 10.

Following: "COMMUNITIES"

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Insert: ", "
Strike: "AND"
Following: "AREAS"
Insert: ", AND RESORT AREA DISTRICTS"

2. Page 2, line 6.
Following: "equipment"
Strike: ";"
Insert: ". However, the rental of vehicles by insurance companies under policy coverages that include temporary vehicle replacement coverage is exempt from the tax."

3. Page 2, line 26.
Strike: "under"
Insert: "after an election conducted pursuant to the procedures set forth in [section 5] that submits to the voters the ballot question in"

4. Page 2, line 29.
Following: "community"
Insert: ", "
Strike: "or"

5. Page 2, line 30.
Following: "area"
Insert: ", or a resort area district"

6. Page 3, line 2.
Following: "community"
Insert: ", "
Strike: "or"
Following: "area"
Insert: ", or resort area district"

7. Page 3, line 28.
Following: "to the"
Insert: "property tax offset"

8. Page 4, line 14.
Strike: "2%"
Insert: "4%"

9. Page 5, line 20.
Following: "community"
Insert: ", "
Strike: "or"
Following: "area"
Insert: ", or resort area district"

10. Page 5, line 30.
Following: "community"

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Insert: ", "
Strike: "or"
Following: "area"
Insert: ", or resort area district"

11. Page 6, line 15.
Following: "community"
Insert: ", "
Strike: "or"
Following: "area"
Insert: ", or resort area district"

12. Page 6, line 17.
Following: "revenue"
Insert: "available after distribution pursuant to [sections 3(1)(a) and 8]"

13. Page 6.
Following: line 24
Insert: "(2) The distribution to municipalities under subsection (1) must be used as provided in [section 3(2)]."
Renumber: subsequent subsections

14. Page 6, line 25.
Following: "community"
Insert: ", "
Strike: "or"
Following: "area"
Insert: ", or resort area district"

And, as amended, do pass. Report adopted.

SB 507, introduced bill, be amended as follows:

1. Page 1, line 21.
Strike: "the full market value is paid for the use of the riverbed"
Insert: "statutory provisions are met"

2. Page 1, line 27.
Strike: "and"

3. Page 1, line 29.
Following: "riverbed"
Insert: "; and
(f) the department has not consistently required payment for riverbed uses over time"

4. Page 2, line 8.
Strike: "of adjacent property"
Insert: "as determined by rule or statute"

5. Page 3, line 2.
Following: "board."

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Insert: "The authorization must be approved if the requirements of this section are met."

6. Page 3, line 14.

Strike: "or"

7. Page 3, line 16.

Following: "act]"

Insert: "; or"

(d) associated with a power site regulated pursuant to Title 77, chapter 4, part 2"

8. Page 3, line 29.

Following: "factors."

Insert: "There is no presumption of navigability because an entity has applied for or received a lease, license, or easement."

9. Page 4, line 10.

Following: the second "footprint"

Insert: "and the applicant has the appropriate state or federal permits"

10. Page 4, line 14.

Following: "that"

Insert: "the department asserts"

11. Page 4, line 21.

Insert: "(5) Rules must be adopted under this section pursuant to Title 2, chapter 4, but any appeal of the location of navigable rivers is not a contested case or subject to judicial review under Title 2, chapter 4, part 7. An appeal must be filed in district court for a trial de novo for determination of navigability for title purposes. A determination by the board pursuant to subsection (1) is not considered a presumption of navigability."

12. Page 5, line 22.

Following: "state"

Insert: "or are not school trust lands"

And, as amended, do pass. Report adopted.

SB 509, introduced bill, be amended as follows:

1. Page 4, line 24 through line 26.

Strike: subsection (10) in its entirety

Renumber: subsequent subsections

2. Page 5, line 27 through line 28.

Strike: "being" on line 27 through "destination" on line 28

Insert: "primary and secondary crushing"

And, as amended, do pass. Report adopted.

SB 510, introduced bill, be amended as follows:

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

1. Title, line 5.

Following: "NEW"

Insert: "OR EXPANDING"

2. Title, line 6.

Strike: "5"

Insert: "10"

3. Title, line 7.

Strike: "APPROVAL"

Insert: "NOTIFICATION"

4. Page 1, line 13.

Strike: "and"

Insert: "or"

5. Page 1, line 14.

Following: "new"

Insert: "or expanding"

Following: "5"

Insert: "or 10"

6. Page 1, line 16.

Strike: "shall approve"

Insert: "must be notified of"

7. Page 1, line 21 through line 22.

Strike: "or" on line 21

Insert: ", and upon expiration of that period,"

Strike: "be made" on line 21 through "and" on line 22

Strike: "up to 4 more consecutive tax years"

Insert: "one more 5-tax-year period"

8. Page 1, line 25.

Insert: "(4) (a) Production from a new underground mine is all production from a mine that in the year prior to tax year in which the first abatement will apply had production of less than 500,000 tons of coal and the production during the course of the abatement period is estimated to be and actually amounts to at least five times the preabatement production amount.

(b) Production from an expanding underground mine is that portion of the mine's production that exceeds the average production for the previous 3 years. To qualify for the abatement, the total of the prior average production and the new production may not decrease during the time of the abatement."

9. Page 2, line 2.

Following: "new"

Insert: "or expanding"

10. Page 2, line 25.

Following: "new"

Insert: "or expanding"

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

11. Page 2, line 27.

Following: "tax"

Insert: "subject to the abatement"

And, as amended, do pass. Report adopted.

SB 465, introduced bill, be amended as follows:

1. Title, line 10.

Following: "SECTIONS"

Insert: "61-8-371,"

2. Page 1, line 13.

Insert: "WHEREAS, the Department of Natural Resources and Conservation has asserted regulatory jurisdiction over the beds of various rivers and streams based on the premise that the streams are navigable and that the state therefore owns the riverbeds and streambeds; and

WHEREAS, very few Montana rivers or streams have been adjudicated as navigable, either in whole or in part; and

WHEREAS, it is not economically feasible for either the Department of Revenue or the Department of Natural Resources and Conservation to obtain judicial determinations of riverbed or streambed ownership by statewide quiet title actions, yet that ownership determination may not be made legally by unilateral administrative decisions; and

WHEREAS, if the Department of Natural Resources and Conservation wishes to assert regulatory control over the bed of a river or stream that has not been adjudicated to be navigable, it is required to provide written notice of the claim of state ownership to the affected property owners; and

WHEREAS, because the present claims of state ownership of riverbeds and streambeds is contrary to longstanding administrative practice and because the test for navigability depends upon evidence concerning the log floating capability of a stream at the time of statehood, there is no presumption of correctness attached to a navigability claim made by any state agency."

3. Page 1, line 16.

Insert: "NEW SECTION. Section 1. Findings. The legislature finds that:

(1) for 120 years since the admission of Montana as a state in 1889, the department of revenue and its predecessor agencies have taxed landowners whose property abuts a river or stream on the assumption that each riparian landowner owns the property to the middle of the river or stream;

(2) in *Montana v. United States*, 450 U.S. 544 (1981), the United States supreme court recognized that if a river or stream is not navigable, the abutting riparian landowners own the land in the bed of the stream to the middle of the stream, but if a river or stream is navigable, the state owns the bed of the river or stream, having acquired ownership from the United States when the state was admitted to the union, and therefore Montana owns the bed of the Bighorn River where it flows through the Crow reservation;

(3) for the purpose of determining the ownership of a riverbed or streambed, the test of navigability is whether logs could be floated in the stream at the time of statehood as stated in *Montana Coalition for Stream Access v. Curran*, 210 Mont. 38, 682 P.2d 163 (1984), based upon *The Montello*, 87 U.S. 430 (1874), *Sierra Pacific Power Co. v. Federal Energy Regulatory Commission*, 681 F.2d 1134 (9th Cir. 1982), and *State of Oregon v. Riverfront Protection Association*, 672 F.2d 792 (9th Cir. 1982);

(4) beginning with tax assessments that were effective January 1, 2008, the lien date for real property taxes, the department of revenue reassessed the property of riparian landowners whose land abuts various rivers and streams by reducing the amount of land assessed based upon the premise that the landowners did not own to the middle of the river or stream because the river or stream was navigable and these reassessments, if correct, have enormous impact upon the riparian landowners because they affect land titles, acreage owned, qualification for

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

various conservation and price support programs, and ownership of water diversion facilities and other structures that the riparian landowners have constructed for water usage;

(5) the 2008 reassessments were made by simply sending out tax bills without any notice that they were based upon a claim of state ownership of the riverbeds or streambeds and some riparian landowners have paid the first installment of 2008 real property taxes based upon the reassessments without realizing that a claim of state ownership of the riverbeds and streambeds was the basis for the reassessments;

(6) procedural due process requires that if a claim of change in ownership is involved, the state agency involved shall afford the affected property owners both notice of the claim and the opportunity to be heard;

(7) the 2008 real property tax assessments based upon claims of state ownership did not comply with the constitutional requirement for procedural due process and under that circumstance payment by the property owners of taxes based on the reassessment does not constitute *acquiescence in the underlying state ownership claim;

(8) if the department of revenue wishes to use the appeal mechanisms available through the county tax appeal boards and the state tax appeal board to determine whether riverbeds and streambeds are taxable to the abutting riparian landowners, it is required to provide written notice to the affected property owners of the state's claim of ownership so that the affected property owners have a fair opportunity to be heard and to dispute the government's claim."

Renumber: subsequent sections

4. Page 1, line 16.

Following: "property"

Insert: "-- presumption of taxability"

Following: "property."

Insert: "(1)"

5. Page 1.

Following: line 19

Insert: "(2) In the absence of adjudication of the ownership of the bed of any river or stream, it is the policy of the state that the department shall assess all land that is part of the bed and banks of a river or stream to the owner of record of the property."

6. Page 1, lines 28 and 29.

Following: "property of the" on line 28

Insert: "original"

Following: "owner" on line 28

Strike: remainder of line 28 through "built" on line 29

Insert: "or the original owner's successors in interest or assignees"

7. Page 2, line 5.

Insert: "Section 5. Section 61-8-371, MCA, is amended to read:

"61-8-371. Operation of motor vehicle or off-highway vehicle below high-water mark on certain state or federal lands prohibited -- exceptions. (1) Except as provided in 77-1-111(3), 77-1-806(4), and subsections (2) and (3) of this section, a person may not operate a motor vehicle or an off-highway vehicle below the ordinary high-water mark, as defined in 23-2-301, of class I or class II waters, as defined in 23-2-301, that occurs on state or federal lands or below the ordinary high-water mark of class I waters flowing through private lands, within that portion of the streambed that is covered with water.

(2) A motor vehicle or an off-highway vehicle may be operated below the ordinary high-water mark on state or federal lands on an established road or trail that enters or crosses a stream, but the stream crossing must be by the shortest practical or designated route to the road or trail on the opposite bank.

(3) The prohibition in subsection (1) does not apply to:

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

(a) off-highway or motor vehicle use that occurs on state or federal land that is designated for off-highway or motor vehicle use below the ordinary high-water mark if the use is in accordance with the requirements of the authorization;

(b) off-highway or motor vehicle use conducted on state or federal land pursuant to and in accordance with a specific written authorization from the appropriate land management agency for that use below the ordinary high-water mark; and

(c) operation of an off-highway vehicle by a nonambulatory person who is using the vehicle for recreational use, as defined in 23-2-301, as long as operation of the vehicle is prudent and minimizes destruction.

(4) The state may authorize the use of a motor vehicle or off-highway vehicle on state property below the ordinary high-water mark only when the state has determined that the use will have a minimal impact on the streambed and on the fish and wildlife ecology of the stream or river. Federal land management agencies are requested to apply the same criteria when authorizing use of federal land."

Renumber: subsequent sections

8. Page 4, line 30.

Strike: "3"

Insert: "4"

9. Page 5, line 15.

Strike: "3"

Insert: "4"

10. Page 5, line 25.

Strike: "3"

Insert: "4"

11. Page 5, line 29.

Strike: "3"

Insert: "4"

12. Page 7, line 4.

Strike: "3"

Insert: "4"

13. Page 7, line 8.

Strike: "3"

Insert: "4"

14. Page 7, line 11.

Strike: "3"

Insert: "4"

15. Page 7, line 19.

Strike: "3"

Insert: "4"

16. Page 8, line 22.

Strike: "3"

Insert: "4"

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

17. Page 8, line 29.

Strike: "1"

Insert: "2"

18. Page 9, line 1.

Strike: "1"

Insert: "2"

19. Page 9, line 2.

Strike: "2"

Insert: "3"

20. Page 9, line 3.

Strike: "2"

Insert: "3"

21. Page 9, line 4.

Strike: "3"

Insert: "4"

22. Page 9, line 5.

Strike: "3"

Insert: "4"

And, as amended, do pass. Report adopted.

Senator Stewart-Peregoy present at this time.

Senator T. Brown present at this time.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 512, introduced by Windy Boy, Belcourt, D. Brown, Ankney, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 435 - Senator Brenden moved **SB 435** do pass.

SB 435 - Senator Zinke moved **SB 435**, second reading copy, be amended as follows:

1. Page 5, line 21.

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Following: "state."

Insert: "The net gain restriction does not apply to land acquired for the purposes of economic development or maintaining historic land use."

2. Page 6, line 17.

Following: "ACCESS."

Insert: "The net gain restriction does not apply to land acquired for the purposes of economic development or maintaining historic land use."

3. Page 11, line 1.

Following: "2003."

Insert: "The net gain restriction does not apply to land acquired for the purposes of economic development or maintaining historic land use."

4. Page 16, line 15.

Following: "state."

Insert: "The net gain restriction does not apply to land acquired for the purposes of economic development or maintaining historic land use."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 435 - Senator Brenden moved **SB 435**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Absent or not voting: None.

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Total 0

Excused: None.

Total 0

SB 500 - Senator Peterson moved **SB 500** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Zinke, Mr. President.

Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 502 - Senator Keane moved **SB 502** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 505 - Senator Bales moved **SB 505** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 241 - Senator Balyeat moved **SB 241** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 34

Nays: Cooney, Erickson, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 513, introduced by Brueggeman, Kaufmann, referred to Taxation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 234 - Senator Gillan moved **SB 234** do pass. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Esp, Hinkle, Jackson, Lewis, Murphy, Shockley, Steinbeisser,

SENATE JOURNAL
SIXTY-FIFTH LEGISLATIVE DAY - MARCH 24, 2009

Tutvedt.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 263 - Senator Shockley moved **SB 263** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Gallus, Hinkle, Laslovich, Williams.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Black moved to change his vote on **SB 234** from no to yes. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate recess until 1:00 p.m., March 25, 2009. Motion carried.

Senate adjourned at 7:42 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
March 25, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Chaplain Ken DuVall, State Chaplain, Montana National Guard. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Stewart-Peregoy, excused. Quorum present.

Correctly printed: **SB 234, SB 241, SB 245, SB 263, SB 303, SB 500, SB 502, SB 505, SB 512, SB 513, SR 18, HB 12, HB 71, HB 98, HB 104, HB 107, HB 112, HB 127, HB 144, HB 161, HB 170, HB 243, HB 404, HB 451, HB 466, HB 483, HB 509, HB 529, HB 542, HB 626.**

Correctly engrossed: **SB 291, SB 402, SB 435, SB 465, SB 489, SB 490, SB 503, SB 506, SB 507, SB 509, SB 510, HB 544, HB 567.**

Correctly enrolled: **SB 74, SB 111, SB 143, SB 185, SB 188, SB 340.**

Delivered to the Governor for approval at 3:50 p.m., March 24, 2009: **SB 20, SB 21, SB 141, SB 173, SB 184, SB 197, SB 323, SB 368, SB 409.**

Examined by the sponsor and found to be correct: **SB 74, SB 82, SB 111, SB 143, SB 185, SB 188, SB 208, SB 209, SB 273, SB 319, SB 325, SB 340, SB 341, SB 395, SB 432, SJR 22.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman): 3/25/2009
SR 10, be adopted. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman): 3/24/2009
HB 338, be amended as follows:

1. Title, page 1, line 5.

Following: "COMBUSTION"

Insert: "OR GASIFICATION"

2. Page 1, line 16.

Following: "COMBUSTION"

Insert: "or gasification"

3. Page 1, line 18.

Following: "COMBUSTION"

Insert: "or gasification"

4. Page 1, line 21.

Following: "COMBUSTION"

Insert: "or gasification"

5. Page 1, line 25.

Following: "COMBUSTION"

Insert: "or gasification"

6. Page 1, line 28.

Following: "COMBUSTION"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Insert: "or gasification"

7. Page 2, line 4.

Following: "COMBUSTION"

Insert: "or gasification"

8. Page 2, line 17.

Following: "COMBUSTION"

Insert: "or gasification"

9. Page 2, line 19.

Following: "COMBUSTION"

Insert: "or gasification"

10. Page 2, line 22.

Following: "COMBUSTION"

Insert: "or gasification"

11. Page 2, line 24.

Following: "COMBUSTION"

Insert: "or gasification"

12. Page 3, line 4.

Following: "COMBUSTION"

Insert: "or gasification"

13. Page 3, line 20.

Following: "COMBUSTION"

Insert: "or gasification"

14. Page 3, line 26.

Following: "COMBUSTION"

Insert: "or gasification"

15. Page 3, line 29.

Following: "COMBUSTION"

Insert: "or gasification"

16. Page 4, line 11.

Following: "COMBUSTION"

Insert: "or gasification"

17. Page 4, line 14.

Following: "COMBUSTION"

Insert: "or gasification"

18. Page 4, line 18.

Following: "COMBUSTION"

Insert: "or gasification"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

19. Page 4, line 29.

Following: "COMBUSTION"

Insert: "or gasification"

20. Page 5, line 1.

Following: "COMBUSTION"

Insert: "or gasification"

21. Page 5, line 3.

Following: "COMBUSTION"

Insert: "or gasification"

22. Page 5, line 9.

Following: "COMBUSTION"

Insert: "or gasification"

23. Page 5, line 16.

Following: "COMBUSTION"

Insert: "or gasification"

And, as amended, be concurred in. Report adopted.

HB 343, be amended as follows:

1. Title, page 1, line 8.

Strike: ", GEOGRAPHIC DIVERSITY,"

2. Page 2, line 3.

Strike: "75"

Insert: "25"

3. Page 2, line 24.

Following: "that"

Insert: ": (i)"

4. Page 2, line 25.

Following: "less;"

Insert: "or

(ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric generation as of [the effective date of this act] and has a nameplate capacity of 15 megawatts or less;"

5. Page 3, line 1.

Strike: "and"

6. Page 3, line 3.

Strike: "(10)(h)"

Insert: "(10)(j)"

Following: "fuels"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Insert: "; and

(j) compressed air derived from any of the sources in this subsection (10) that is forced into an underground storage reservoir and later released, heated, and passed through a turbine generator"

7. Page 3, line 4 through line 7.

Strike: subsection (11) in its entirety

Renumber: subsequent subsections

8. Page 3, line 15 through line 16.

Strike: "(12)(a) through (12)(f)"

Insert: "(11)(a) through (11)(f)"

9. Page 4, line 11 through line 12.

Strike: "unless" on line 11 through "or (4)(b)." on line 12

10. Page 4, line 17.

Strike: "geographic diversity."

Strike: "operational"

11. Page 4, line 18.

Strike: "characteristics"

Insert: "attributes"

Following: "resource"

Insert: "contained in the commission's supply procurement rules"

Following: "energy"

Insert: "or renewable energy"

And, as amended, be concurred in. Report adopted.

FISH AND GAME (Barkus, Chairman):

3/25/2009

HB 218, be amended as follows:

1. Title, page 1, line 5.

Following: "USE OF"

Insert: "PROJECTED"

2. Page 2, line 24.

Following: "spotlights"

Insert: "projected"

3. Page 3, line 18.

Following: "using"

Insert: "projected"

4. Page 4, line 4.

Following: "using"

Insert: "projected"

5. Page 5, line 4.

Following: "other"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Insert: "projected"

And, as amended, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):
SB 508, introduced bill, be amended as follows:

3/25/2009

1. Title, page 1, line 22.

Following: "61-3-535,"

Insert: "61-3-562,"

2. Page 2, line 7 through line 8.

Following: "standards" on line 7

Strike: ", with" through "department" on line 8

3. Page 2, line 12 through line 13.

Following: "personnel" on line 12

Strike: "and " through "department" on line 13

Insert: "county treasurers, and authorized agents under the provisions of 61-3-116"

4. Page 2, line 15 through line 16.

Following: "(e)" on line 15

Strike: "include" through "department" on line 16

Insert: "receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy"

5. Page 2, line 22.

Following: "week,"

Insert: "subject to reasonable allowances for scheduled maintenance or temporary system failures,"

6. Page 2, line 24.

Following: "period"

Insert: "of not less than 6 months"

7. Page 2, line 28.

Following: "coverage for"

Insert: ": (a)"

8. Page 2, line 29.

Following: the first "in this state"

Insert: "; and (b) if available, for a vehicle that is insured by that company"

Following: the second "in this state"

Insert: "and that is the subject of an accident investigation"

9. Page 3, line 5 through line 6.

Following: the first "vehicle" on line 5

Strike: ", an operator" through "or" on line 6

10. Page 3, line 8.

Following: "(2)"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Strike: "The"

Insert: "(a) Except as provided in subsection (2)(b), the"

11. Page 3, line 11.

Insert: "(b) Subsection (2)(a) does not apply if the vehicle is:

(i) covered under a commercial automobile insurance coverage policy;

(ii) part of a self-insured fleet as provided in 61-6-143; or

(iii) included in an insurance binder, as allowed by 33-15-411, that has not been entered into the system.

(3) Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law, a peace officer may not use the verification system to stop a driver for operating a motor vehicle in violation of 61-6-301."

12. Page 4, line 4.

Following: the second "account"

Strike: "in the enterprise"

Insert: "of the internal service"

13. Page 14, line 22.

Following: "\$237.50;"

Strike: "and"

14. Page 14, line 23.

Following: "(ii)"

Insert: "unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under [section 3]; and (iii)"

15. Page 15, line 23.

Following: "2015,"

Strike: "a"

Insert: "an additional"

16. Page 15, line 27.

Following: "3]"

Insert: ", except \$2 of the fee imposed in subsection (12)(a) must be deposited in the state general fund"

17. Page 18, line 5.

Following: "~~(2)(b)~~"

Strike: "that is permanently registered pursuant to 61-3-562"

Insert: "described in subsection (2)(b)"

18. Page 18, line 7 through line 8.

Following: "registered" on line 7

Strike: "is" through "subsection (3)" on line 8

Insert: "may display the license plate and plate design in effect at the time of registration for the entire period that the light vehicle or motor home is permanently registered"

19. Page 21, line 6.

Following: "[section 3]"

Insert: ", except \$2 of the fee imposed in subsection (1) must be deposited in the state general fund"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

20. Page 22, line 1.

Following: "The"

Insert: "amount of \$8 of the"

Following: "[section 3]"

Insert: "and \$2 of the fee must be deposited in the state general fund"

21. Page 22, line 18.

Following: "fee of"

Strike: "\$15"

Insert: "\$20"

22. Page 22, line 20.

Following: "of the"

Strike: "\$15"

Insert: "\$20"

23. Page 22, line 24.

Following: "of the"

Strike: "\$15"

Insert: "\$20"

24. Page 22, line 25.

Following: "[section 3]:"

Insert: "(ii) \$5 of the administrative fee to the state general fund;"

Renumber: subsequent subsections

25. Page 23.

Following: line 17

Insert: "**Section 19.** Section 61-3-562, MCA, is amended to read:

"61-3-562. Permanent registration -- transfer of light vehicle ownership -- rules. (1) (a) The owner of a light vehicle 11 years old or older subject to the registration fee, as provided in 61-3-321(2), may permanently register the light vehicle upon payment of a \$87.50 registration fee, the applicable registration and license fees under 61-3-412, if applicable, the administrative fee and the annual one-time-only donation fee for a generic specialty license plate under 61-3-480, and an amount equal to five times the local option motor vehicle tax or flat fee on vehicles under 61-3-537 and, if as applicable, ~~when personalized plates under 61-3-406 are being issued or renewed~~, either:

(i) (A) the original fee and four times the renewal fee for personalized plates; or

~~(ii)(B)~~ (B) five times the renewal fees for personalized plates; or

(ii) if a new set of license plates is not being issued, an insurance verification fee of \$5, which must be deposited in the account established under [section 3].

(b) The following series of license plates may not be used for purposes of permanent registration of a light vehicle:

(i) Montana national guard license plates issued under 61-3-458(2)(b);

(ii) reserve armed forces license plates issued under 61-3-458(2)(c);

(iii) amateur radio operator license plates issued under 61-3-422; and

(iv) collegiate license plates issued under 61-3-465.

(2) In addition to the fees described in subsection (1), an owner of a truck with a manufacturer's rated capacity of 1 ton or less that is permanently registered shall pay five times the applicable fees imposed under 61-10-201.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

(3) The owner of a motor vehicle that is permanently registered under this section is not subject to additional registration fees or to other motor vehicle registration fees described in this section for as long as the owner owns the vehicle.

(4) The county treasurer shall once each month remit to the state the amounts collected under this section, other than the local option motor vehicle tax or flat fee, for the purposes of 61-3-321(2) and 61-10-201. The county treasurer shall retain the local option motor vehicle tax or flat fee.

(5) (a) The permanent registration of a light vehicle allowed by this section may not be transferred to a new owner. If the light vehicle is transferred to a new owner, the department shall cancel the light vehicle's permanent registration.

(b) Upon transfer of a light vehicle registered under this section to a new owner, the new owner shall apply for a certificate of title under 61-3-201 and 61-3-216 and register the light vehicle under 61-3-303."

Renumber: subsequent sections

26. Page 23, line 25.

Following: "apply:"

Insert: "(1) "Commercial automobile insurance coverage" means any coverage provided to an insured, regardless of number of vehicles or entities covered, under a commercial, garage, or truckers coverage form and rated from a commercial manual or rating rule. Vehicle type and ownership are not the primary factors in underwriting the coverage or rating the coverage. The rating may be subject to individual risk characteristics, including but not limited to experience rating, schedule rating, loss rating, or deductible rating."

Renumber: subsequent subsections

27. Page 24.

Following: line 6

Insert: "(5) "Low-volume insurer" means an insurer that provides motor vehicle liability policies for fewer than 500 vehicles in this state."

Renumber: subsequent subsections

28. Page 27, line 11.

Following: the second "department"

Insert: "that are consistent with specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards"

29. Page 27, line 26 through line 29.

Strike: subsection (e) in its entirety

Renumber: subsequent subsections

30. Page 27, line 30 through page 28, line 1.

Following: "for" on line 30

Strike: "biannual" through "noncompliance" on page 28, line 1

Insert: "periodic insurance data file transfers from insurers under specifications and standards set forth in [section 1] to identify vehicles that are not covered by an insurance policy and to monitor ongoing compliance"

31. Page 28, line 2 through line 3.

Following: "for"

Strike: "biannual"

Following: "to"

Strike: "monitor compliance of permanently registered vehicles with mandatory vehicle liability insurance requirements"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Insert: "identify vehicles that are not covered by an insurance policy"

32. Page 28, line 7.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

33. Page 28, line 19.

Following: "61-6-301."

Insert: "If the card is issued under a commercial automobile insurance policy or a self-insured fleet, the card must indicate the status as "commercially insured" or "fleet"."

And, as amended, do pass. Report adopted.

JUDICIARY (Perry, Chairman):

3/25/2009

HB 301, be concurred in. Report adopted.

HB 517, be amended as follows:

1. Page 2, line 2.

Following: "an"

Strike: "extraordinary"

2. Page 2, line 29.

Following: "information"

Strike: "acquired"

Insert: "divulged to the team"

3. Page 3, line 13.

Following: "FACTS"

Insert: "divulged by the emergency service provider"

And, as amended, be concurred in. Report adopted.

HB 591, be amended as follows:

1. Title, line 5.

Strike: "AMERICAN INDIAN"

Insert: "ENROLLED MEMBER OF A FEDERALLY RECOGNIZED INDIAN TRIBE LOCATED WITHIN THE BOUNDARIES OF THE STATE OF MONTANA"

2. Title, line 5 through line 8.

Strike: "PROVIDING" on line 5 through "TERM;" on line 8

3. Page 1, line 18 through line 21.

Strike: "American" on line 18 through "board" on line 21

Insert: "enrolled member of a federally recognized Indian tribe located within the boundaries of the state of Montana"

4. Page 2, line 1.

Strike: "(a)"

Strike: "Except" through "the"

Insert: "The"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

5. Page 2, line 4 through line 6.
Strike: subsection (b) in its entirety

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 3/24/2009

HB 7, introduced by McNutt
HB 9, introduced by Hollenbaugh

Senate bills concurred in and returned to the Senate: 3/24/2009

SB 111, introduced by Ripley
SB 143, introduced by Laible
SB 185, introduced by Balyeat
SB 188, introduced by Balyeat
SB 340, introduced by Laslovich

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 3/24/2009

SB 73, introduced by Hawks

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments: 3/24/2009

SJR 9, introduced by Wanzenried

HB 8, introduced by McNutt, requiring adoption by an affirmative roll call vote of three-quarters of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/24/2009

Yeas - 87
Nays - 9

MESSAGES FROM THE GOVERNOR

March 24, 2009

The Honorable Robert Story
President, Montana State Senate
Capitol Station
Helena, Montana 59620

Dear President Story:

The following individuals have been appointed as Directors of state agencies in accordance with Montana Code Annotated 2-15-111. (Their resumes are attached.)

Janet Kelly, Director of the Department of Administration
Ron deYong, Director of the Department of Agriculture

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Keith Kelly, Commissioner of the Department of Labor and Industry
John Walsh, Adjutant General of the Department of Military Affairs
Jim Lynch, Director of the Department of Transportation

In addition, the following are appointed as council members of the Northwest Power and Conservation Council, in accordance with Montana Code Annotated 2-15-111. (His resume is attached.)

Bruce Measure

Additional information about the cabinet is available online at <http://governor.mt.gov>. Meanwhile, please don't hesitate to contact our office if my staff or I can be of assistance to you.

Sincerely yours,

BRIAN SCHWEITZER
Governor

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 7, introduced by McNutt (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 8, introduced by McNutt (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 9, introduced by Hollenbaugh (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Bales in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 37 - Senator Kaufmann moved **SB 37** do pass. Motion carried as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Hinkle, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke.
Total 18

Absent or not voting: None.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Total 0

Excused: None.

Total 0

SB 379 - Senator Perry moved **SB 379** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Nays: Balyeat, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 217 - Senator Debby Barrett moved **SB 217** do pass.

SB 217 - Senator Debby Barrett moved **SB 217**, second reading copy, be amended as follows:

1. Title, page 1, line 9.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 2, line 6.

Following: line 5

Insert: "NEW SECTION. Section 2. Contingent voidness. If funding for the reimbursements to livestock producers provided for in 87-1-323(4) is not included in House Bill No. 645, then [this act] is void."

Renumber: subsequent sections

3. Page 2, line 8.

Following: line 7

Insert: "NEW SECTION. Section 4. Termination. [This act] terminates June 30, 2012."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 40

Nays: Erickson, Juneau, Kaufmann, Larsen, Moss, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 217 - Senator Debby Barrett moved **SB 217**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 418 - Senator Branae moved **SB 418** do pass. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Barkus, Brenden, Hinkle, McGee, Shockley, Steinbeisser.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 491 - Senator Lewis moved **SB 491** do pass.

SB 491 - Senator Lewis moved **SB 491**, second reading copy, be amended as follows:

1. Page 3, line 24.

Following: "amount"

Insert: "referred to in subsection (4)(b)"

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

2. Page 3, line 25.

Following: "~~the~~"

Strike: "THAT" through "AMOUNT"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 491 - Senator Lewis moved **SB 491**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 63 - Senator J. Peterson moved consideration of **SB 63** be placed at the top of the second reading board. Motion carried.

SB 63 - Senator Laible moved **SB 63** do pass. Motion **failed** as follows:

Yeas: Bales, Brueggeman, Cooney, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Nays: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Erickson, Esp, Essmann,

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Hinkle, Jackson, Jent, Kaufmann, Keane, Lewis, McGee, Peterson, Ripley, Squires, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 63 - Senator Williams moved **SB 63** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Erickson, Esp, Essmann, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laslovich, Lewis, Perry, Peterson, Schmidt, Squires, Tutvedt, Mr. President.
Total 27

Nays: Branae, Brueggeman, Cooney, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Laible, Larsen, McGee, Moss, Murphy, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 290 - Senator Branae moved **HB 290** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 357 - Senator Jackson moved **HB 357** be concurred in. Motion **failed** as follows:

Yeas: Bales, Balyeat, Black, Branae, R. Brown, T. Brown, Brueggeman, Erickson, Hamlett, Hansen, Hinkle, Jackson, Keane, Lewis, Murphy, Perry, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Zinke.

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Total 25

Nays: Barkus, Barrett, Brenden, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, McGee, Moss, Peterson, Schmidt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 357 - Senator Williams moved **HB 357** be **indefinitely postponed**. Motion **failed** as follows:

Yeas: Bales, Barkus, Branae, Brenden, Cooney, Curtiss, Esp, Essmann, Gallus, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Squires, Wanzenried, Williams, Mr. President.

Total 22

Nays: Balyeat, Barrett, Black, R. Brown, T. Brown, Brueggeman, Erickson, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Keane, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke.

Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 386 - Senator Steinbeisser moved **HB 386** be concurred in.

HB 386 - Senator Steinbeisser moved **HB 386**, second reading copy, be amended as follows:

1. Page 2, line 16.

Following: "AFFIDAVIT"

Insert: "or a written instrument"

2. Page 3, line 2.

Following: "AFFIDAVIT"

Insert: "or written instrument"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 386 - Senator Steinbeisser moved **HB 386**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Bales moved the Committee of the Whole report be adopted.

SB 379 - Senator Kaufmann moved that **SB 379** be segregated from the Committee of the Whole report and the remainder of the report be adopted.

SB 379 - Senator Gebhardt made a **substitute motion** that **SB 379** and **HB 357** be segregated from the Committee of the Whole report. Senator Gebhardt withdrew his motion.

SB 379 - Motion to segregate **SB 379** failed as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Excused: None.
Total 0

Chairman Bales moved the Committee of the Whole report be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Peterson moved **HB 357** be re-referred back to Business and Labor for further action. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 234 passed as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Hinkle, Jackson, Lewis, Murphy, Shockley, Steinbeisser, Tutvedt.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 241 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry,

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Branae, Cooney, Erickson, Gallus, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 245 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 29

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 263 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 45

Nays: R. Brown, Kaufmann, Laslovich, Schmidt, Williams.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 303 passed as follows:

Yeas: Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen,

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Bales, Balyeat, Barrett, Brenden, R. Brown.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 500 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 31

Nays: Branae, Cooney, Erickson, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 502 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 505 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann,

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 243 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 221 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 593 concurred in as follows:

SENATE JOURNAL
SIXTY-SIXTH LEGISLATIVE DAY - MARCH 25, 2009

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Esp, Hinkle, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate bill was introduced, read first time, and referred to committee:

SB 514, introduced by Windy Boy, Campbell, Hamilton, Augare, Belcourt, Calf Boss Ribs, referred to Taxation.

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 19, introduced by Wanzenried (by request of Senate Natural Resources Standing Committee), referred to Natural Resources.

SR 20, introduced by Kaufmann (by request of Senate Natural Resources Standing Committee), referred to Natural Resources.

The following Senate joint resolutions were introduced, read first time, and referred to committees:

SJR 31, introduced by Windy Boy, J. Tropila, Squires, Campbell, McAlpin, Calf Boss Ribs, Belcourt, Hunter, Henry, Caferro, Augare, Hamilton, referred to Public Health, Welfare and Safety.

SJR 32, introduced by Windy Boy, Lewis, J. Tropila, Squires, Campbell, Calf Boss Ribs, Henry, Hamilton, Caferro, Belcourt, Hunter, McAlpin, Augare, Jones, referred to Public Health, Welfare and Safety.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, March 26, 2009. Motion carried.

Senate adjourned at 3:05 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
March 26, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Laslovich, excused. Quorum present.

BILLS AND JOURNALS:

3/26/2009

Correctly printed: **SB 37, SB 379, SB 418, SB 514, SJR 31, SJR 32, SR 10, SR 19, SR 20, HB 290, HB 301.**

Correctly engrossed: **SB 217, SB 491, SB 508, HB 218, HB 338, HB 343, HB 386, HB 517, HB 591.**

Correctly enrolled: **SB 250.**

Signed by the Speaker at 8:00 a.m., March 26, 2009: **SB 82, SB 208, SB 319, SB 325, SB 432, SJR 22.**

Signed by the President at 12:30 p.m., March 25, 2009: **SB 82, SB 208, SB 319, SB 325, SB 432, SJR 22.**

Signed by the Secretary of the Senate at 10:10 a.m., March 25, 2009: **SB 82, SB 208, SB 319, SB 325, SB 432, SJR 22.**

Signed by the Speaker at 11:00 a.m., March 26, 2009: **SB 74, SB 111, SB 143, SB 185, SB 188, SB 209, SB 273, SB 340, SB 341, SB 395.**

Signed by the President at 8:25 a.m., March 26, 2009: **SB 74, SB 111, SB 143, SB 185, SB 188, SB 209, SB 273, SB 340, SB 341, SB 395.**

Signed by the Secretary of the Senate at 3:55 p.m., March 25, 2009: **SB 74, SB 111, SB 143, SB 185, SB 188, SB 209, SB 273, SB 340, SB 341, SB 395.**

Delivered to the Governor for approval at 10:55 a.m., March 26, 2009: **SB 82, SB 208, SB 319, SB 325, SB 432.**

Returned to the House of Representatives as requested: **SB 299**

Delivered to the Secretary of State at 10:34 a.m., March 26, 2009: **SJR 22.**

Examined by the sponsor and found to be correct: **SB 250.**

REPORTS OF STANDING COMMITTEES

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

3/25/2009

HB 488, be amended as follows:

1. Page 1, line 25.

Strike: "School"

Insert: "Registered voters within the exterior boundaries of school"

Strike: "2006"

Insert: "2008"

And, as amended, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

3/26/2009

HB 95, be amended as follows:

1. Title, page 1, line 7.

Following: "SECTIONS"

Insert: "40-5-303,"

2. Page 1, line 11.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Insert: "Section 1. Section 40-5-303, MCA, is amended to read:

"40-5-303. Petition for income deduction -- who may initiate. (1) If an obligor is exempted from immediate income withholding under 40-5-315 or is not otherwise subject to an income-withholding order, the obligor's income may be withheld for the payment of child support if the obligor becomes delinquent in the payment of support, a person or entity referred to in subsection (2) notifies the obligor that income withholding will be initiated if the delinquent amount is not paid within 8 days of the date of the notice, and the obligor does not pay the delinquent amount within that time. Notification that income withholding will be initiated if a delinquency is not paid within 8 days of the date of the notice is not necessary if such a notice was given for a prior delinquency and the prior delinquency in fact existed. This notice is different from the notice required by 40-5-305.

(2) Income withholding for the payment of child support may be initiated by:

(a) the person named as the recipient of the child support payments in the child support order;

(b) the child or the guardian of the child named in the child support order; ~~or~~

(c) the department of public health and human services; or

(d) the state of Montana, including the department of corrections and respective county attorneys, for the purpose of enforcing contribution orders under 41-5-1525. These contribution orders are considered to be child support orders for purposes of enforcement under this chapter.

(3) (a) At the request of an initiating party who has determined that an obligor is delinquent, the district court shall issue an order for income deductions for immediate service upon the obligor's payor or payors. The order is limited to current support unless modified to include arrears as provided in 40-5-308.

(b) At the same time an income deduction order is issued, the requesting party shall notify the obligor as provided in 40-5-305 that income deductions have been initiated.

(4) Deductions under this section for current support may be terminated only if:

(a) the district court determines after a hearing that the obligor was not delinquent when the deduction order was issued;

(b) the obligation to pay support has terminated and all delinquencies are paid in full; or

(c) the department of public health and human services has superseded the deduction order under authority of Title 40, chapter 5, part 4.

(5) As used in this part, the following definitions apply:

(a) "Employer" includes a payor.

(b) (i) "Income" means any form of periodic payment to a person, regardless of source, including commissions, bonuses, workers' compensation, disability benefits, payments under a pension or retirement program, interest and earnings, and wages.

(ii) Income does not include:

(A) an amount, other than creditor claims, required by law to be withheld, including federal, state, and local taxes and social security; or

(B) an amount exempted from judgment, execution, or attachment by federal or state law.

(c) "Payor" means any entity that pays income to an obligor on a periodic basis and includes any person, firm, corporation, association, employer, trustee, political subdivision, or state agency or an agent of any one of them, subject to the jurisdiction of the courts of this state under Rule 4B of the Montana Rules of Civil Procedure.""

Renumber: subsequent sections

3. Page 8, lines 4 through line 18.

Strike: subsection (7) through subsection (9) in their entirety.

And, as amended, be concurred in. Report adopted.

HB 477, be concurred in. Report adopted.

HB 504, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/26/2009

HB 495, be concurred in. Report adopted.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

HB 546, be amended as follows:

1. Title, line 10.

Following: "INTEREST;"

Insert: "ALLOWING FOR REGULATION OF SIGN SIZE AND PLACEMENT; AND"

2. Title, line 11.

Strike: "; AND PROVIDING AN APPLICABILITY DATE"

3. Page 1.

Following: line 21

Insert: "(2) A person, homeowners' association, property owners' association, corporation, or other private entity may impose limits on the size of signs allowed to be displayed within the jurisdiction of the private entity and may regulate the location of sign placement and the time period during which signs may be displayed."

Renumber: subsequent subsections

4. Page 4, line 15 through line 19.

Strike: sections 11 and 12 in their entirety

And, as amended, be concurred in. Report adopted.

HB 563, be amended as follows:

1. Page 1, line 10 through line 12.

Strike: "A" on line 10 through "exist:" on line 12

Insert: "The county commission or a directly affected person, if the person has appeared before a regular meeting of the county commission to notify the commission of the person's intent, may request that a district court recognize a route of a county road that is maintained by the county and used by the public as the legal route if any of the following conditions exist:"

2. Page 1, line 20.

Following: "The"

Insert: "county commission or the"

3. Page 1, line 27.

Following: "may"

Insert: ", subject to subsection (4),"

4. Page 1, line 29.

Following: "NOTICE"

Insert: "and the opportunity for a public hearing"

Following: "LANDOWNERS"

Insert: ", the county commission, and directly affected persons"

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

3/26/2009

HB 19, be amended as follows:

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

1. Page 40.

Following: line 27

Insert: "COORDINATION SECTION. Section 59. Coordination instruction. If [this act] and Senate Bill No. 394 are both passed and approved and both bills amend 13-19-205, then the sections amending 13-19-205 are void and 13-19-205 must be amended as follows:

"13-19-205. Written plan for conduct of election -- amendments -- approval procedures. (1) The election administrator shall prepare a written plan, including a timetable, for the conduct of the election and shall submit it to the secretary of state and the governing body concerned in a manner that ensures that it is received at least 60 days prior to the date set for the election.

(2) (a) The written plan must include:

(i) a timetable for the election;

(ii) the location of places of deposit for ballots;

(iii) the location of any accessible places of deposit that would include the use of specialized voting equipment designed to accommodate physically disabled voters;

(iv) a description of any other voter services to be provided at the places of deposit;

(v) any specific effort designed to increase or enhance the ability of a person to participate in the election;
and

(vi) sample written instructions that will be sent to the electors. The instructions must include but are not limited to information on the estimated amount of postage required to return the ballot and, if the information is available, the location of places of deposit for ballots and the days and times when ballots may be returned to the places of deposit.

(b) If the information described in subsection (2)(a)(vi) is not available when the plan is submitted under subsection (1), the sample written instructions must include a section that will allow the information to be added before the instructions are mailed to electors.

~~(2)~~(3) The plan may be amended by the election administrator any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes. Only the governing body concerned must be notified of any changes to information required in subsection (2).

~~(3)~~(4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

~~(4)~~(5) When the written plan has been approved, the election administrator shall proceed to conduct the election according to the approved plan unless the election is canceled for any reason provided by law." "

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 25, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 5** sponsored by Senator Erickson, **Senate Bill 21** sponsored by Senator Story, **Senate Bill 25** sponsored by Senator Wanzenried, **Senate Bill 40** sponsored by Senator Juneau, **Senate Bill 54** sponsored by Senator Steinbeisser, **Senate Bill 77** sponsored by Senator Juneau, **Senate Bill 88** sponsored by Senator M. Tropila, **Senate Bill 89** sponsored by Senator M. Tropila, **Senate Bill 102** sponsored by Senator Brueggeman, **Senate Bill 120** sponsored by Senator Zinke, **Senate Bill 135** sponsored by Senator Larsen, **Senate Bill**

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

150 sponsored by Senator Brueggeman, **Senate Bill 155** sponsored by Senator Cooney, **Senate Bill 160** sponsored by Senator Jent, **Senate Bill 170** sponsored by Senator Gebhardt, **Senate Bill 182** sponsored by Senator Esp, **Senate Bill 196** sponsored by Senator Windy Boy, **Senate Bill 219** sponsored by Senator Squires, **Senate Bill 255** sponsored by Senator Tutvedt, **Senate Bill 262** sponsored by Senator Wanzenried, **Senate Bill 296** sponsored by Senator Essmann, **Senate Bill 331** sponsored by Senator Balyeat, **Senate Bill 376** sponsored by Senator Black, **Senate Bill 390** sponsored by Senator McGee, **Senate Bill 438** sponsored by Senator Juneau, on March 25, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

March 25, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 256** sponsored by Senator Shockley, on March 23, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

March 25, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 23** sponsored by Senator Wanzenried, **Senate Bill 35** sponsored by Senator Jent, **Senate Bill 53** sponsored by Senator Lewis, **Senate Bill 72** sponsored by Senator Laslovich, **Senate Bill 78** sponsored by Senator Brenden, **Senate Bill 91** sponsored by Senator Juneau, **Senate Bill 98** sponsored by Senator Keane, **Senate Bill 103** sponsored by Senator Moss, **Senate Bill 140** sponsored by Senator Perry, **Senate Bill 152** sponsored by Senator Brueggeman, **Senate Bill 157** sponsored by Senator Shockley, **Senate Bill 161** sponsored by Senator Debby Barrett, **Senate Bill 201** sponsored by Senator Laslovich, **Senate Bill 215** sponsored by Senator Steinbeisser, **Senate Bill 252** sponsored by Senator Cooney, on March 20, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

MESSAGES FROM THE OTHER HOUSE

HB 10, introduced by Wiseman, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/25/2009

Yeas - 67

Nays - 33

House bills passed and transmitted to the Senate for concurrence:

3/25/2009

HB 5, introduced by Sesso
HB 6, introduced by McNutt
HB 11, introduced by Sesso
HB 130, introduced by Stoker
HB 131, introduced by Stoker
HB 132, introduced by Stoker
HB 152, introduced by Hamilton
HB 173, introduced by Hendrick
HB 213, introduced by Sesso
HB 250, introduced by MacLaren
HB 258, introduced by McChesney
HB 333, introduced by P. Noonan
HB 411, introduced by McChesney
HB 459, introduced by Grinde
HB 487, introduced by McNutt
HB 548, introduced by McAlpin
HB 577, introduced by Caferro
HB 611, introduced by Jones
HB 629, introduced by Glaser
HB 659, introduced by Roberts

Senate amendments to House bills concurred in:

3/25/2009

HB 55, introduced by Hawk
HB 623, introduced by Milburn

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

3/25/2009

SB 250, introduced by Wanzenried

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 5, introduced by Sesso (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 6, introduced by McNutt (by request of the Department of Natural Resources and Conservation), referred to Finance and Claims.

HB 10, introduced by Wiseman (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

HB 11, introduced by Sesso (by request of the Department of Natural Resources and Conservation and the Office of Budget and Program Planning), referred to Finance and Claims.

HB 130, introduced by Stoker (by request of the Law and Justice Interim Committee), referred to Local Government.

HB 131, introduced by Stoker (by request of the Law and Justice Interim Committee), referred to Finance and Claims.

HB 132, introduced by Stoker (by request of the Law and Justice Interim Committee), referred to Judiciary.

HB 152, introduced by Hamilton (by request of the Governor), referred to Finance and Claims.

HB 173, introduced by Hendrick, Villa, referred to Public Health, Welfare and Safety.

HB 213, introduced by Sesso, Gallus, Gebhardt, Keane, Laslovich, Lewis, Ankney, A. Noonan, Hiner, Villa, Furey, McClafferty, P. Noonan, B. Beck, referred to Finance and Claims.

HB 250, introduced by MacLaren, Steinbeisser, referred to Public Health, Welfare and Safety.

HB 258, introduced by McChesney (by request of the State Auditor), referred to Finance and Claims.

HB 333, introduced by P. Noonan, Villa, Mendenhall, Sesso, Hollenbaugh, Hiner, A. Noonan, Keane, Ankney, McClafferty, Ebinger, Ingraham, Menahan, De. Barrett, Gallus, Welborn, referred to Energy and Telecommunications.

HB 411, introduced by McChesney, Getz, Ankney, referred to Local Government.

HB 459, introduced by Grinde, Augare, Debby Barrett, Dick Barrett, Becker, Belcourt, Blewett, Calf Boss Ribs, Cohenour, Driscoll, Ebinger, Fleming, French, Furey, Glaser, Grinde, Hamilton, Hands, Hollenbaugh, Kottel, Malek, MacDonald, McClafferty, A. Noonan, P. Noonan, Pease-Lopez, Pomnichowski, Reinhart, Roundstone, Steenson, Van Dyk, Villa, Wilson, Wiseman, referred to Education and Cultural Resources.

HB 487, introduced by McNutt, Jones, referred to Taxation.

HB 548, introduced by McAlpin, A. Noonan, O'Hara, Fleming, Wilson, referred to Agriculture, Livestock and Irrigation.

HB 577, introduced by Caferro, Henry, Sands, referred to Education and Cultural Resources.

HB 611, introduced by Jones, Glaser, Augare, Mehlhoff, referred to Education and Cultural Resources.

HB 629, introduced by Glaser, Story, referred to Education and Cultural Resources.

HB 659, introduced by Roberts, Stahl, referred to State Administration.

MOTIONS

Senator Peterson moved to recess until 1:20 p.m. for caucuses. Motion carried.

Senate in recess.

Senate reconvened.

Roll call. All members present.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 37 passed as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 29

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Hinkle, Laible, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 217 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 291 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Essmann, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Tutvedt, Williams, Zinke.

Total 31

Nays: Branae, Cooney, Esp, Gallus, Gillan, Hansen, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 379 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Nays: Balyeat, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 402 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 32

Nays: Branae, Cooney, Erickson, Gallus, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 418 passed as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 42

Nays: Balyeat, Barkus, Brenden, Hinkle, McGee, Shockley, Steinbeisser, Zinke.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 435 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Nays: Branae, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 290 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Gillan in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 260 - Senator Gillan moved **SB 260** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Cooney, Erickson, Hamlett, Hansen, Jent, Juneau, Kaufmann, Laslovich, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams.

Total 13

Absent or not voting: None.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Total 0

Excused: None.

Total 0

SB 499 - Senator Essmann moved **SB 499** do pass.

SB 499 - Senator Essmann moved **SB 499**, second reading copy, be amended as follows:

1. Page 1, line 28.

Following: "applicable"

Insert: "surface or underground mining rate[, but not to the auger mining]"

2. Page 5, line 8.

Insert: "COORDINATION SECTION. Section 4. Coordination instruction. If Senate Bill No. 292 is not passed and approved, then the bracketed language in [section 1 of this act] amending 15-35-103(4)(a) is void."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Hawks, Jent, Larsen, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 499 - Senator Gillan moved **SB 499**, second reading copy, be amended as follows:

1. Title, line 4.

Following: "ESTABLISHING A"

Insert: "15-YEAR"

2. Page 2, line 10.

Following: "quarter"

Insert: "and terminates in 15 years on the last day of the fiscal quarter"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.

Total 39

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Nays: Erickson, Hawks, Juneau, Kaufmann, Larsen, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 499 - Senator Essmann moved **SB 499**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 30

Nays: Branae, Cooney, Erickson, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Gillan assumed the chair.

HB 400 - Senator Brueggeman moved **HB 400** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hawks, Jackson, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 39

Nays: Curtiss, Esp, Gillan, Hansen, Hinkle, Jent, Juneau, McGee, Schmidt, Stewart-Peregoy, Windy Boy.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 530 - Senator Balyeat moved **HB 530** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires,

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Hawks, Jent, Perry.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 465 - Senator Hamlett moved **SB 465** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Hawks, Jent.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator J. Peterson moved consideration of **SB 489** and **SB 507** be passed for the day. Motion carried.

SB 510 - Senator Gebhardt moved **SB 510** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Hawks, Juneau, Kaufmann, Stewart-Peregoy, Wanzenried.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 144 - Senator Cooney moved **HB 144** be concurred in. Motion carried as follows:

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Gillan moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman): 3/26/2009

HB 572, be concurred in. Report adopted.

HB 635, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman): 3/26/2009

HB 147, be amended as follows:

1. Title, page 1, line 7 through line 8.

Strike: "SPECIFYING" on line 7 through "REPORTS;" on line 8

2. Page 1, line 23.

Following: the second "election"

Insert: ";"

3. Page 1, line 23 through line 25.

Strike: ". The report" on line 23 through "13-37-225." on line 25

4. Page 2, line 7.

Following: the second "election"

Insert: ";"

5. Page 2, line 7 through line 9.

Strike: ". The report" on line 7 through "13-37-225."

6. Page 2, line 19.

Following: "~~by mail or~~"

Insert: "by mail or"

Following: "~~communication~~"

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Strike: "filing" through "service"
Insert: "communication"

7. Page 3, line 5.

Following: "more"

Insert: "for election material described in 13-35-225(1)"

8. Page 3, line 5 through 7

Following: the second "election"

Insert: " ; "

Strike: ". The report" on line 5 through "13-37-225."

And, as amended, be concurred in. Report adopted.

HB 328, be amended as follows:

1. Title, line 4.

Strike: "REVISING" through "OF"

Insert: "ELIMINATING THE REQUIREMENT FOR"

Strike: "NEEDED"

2. Title, line 6.

Strike: "SECTIONS" through "AND"

Insert: "SECTION"

3. Page 1, line 10 through line 24.

Strike: section 1 in its entirety

Renumber: subsequent section

4. Page 2, line 1 through line 2.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

And, as amended, be concurred in. Report adopted.

HB 384, be amended as follows:

1. Title, line 11.

Following: "17-5-1302"

Insert: " , "

Strike: the first "AND"

Following: "17-5-1312,"

Insert: "AND 17-5-2201,"

2. Page 3.

Following: line 14

Insert: "**Section 3.** Section 17-5-2201, MCA, is amended to read:

"17-5-2201. Fee for issuance of bonds. Except for issuers of general obligation bonds ~~which~~ that are payable solely by general fund revenues and as provided in 17-5-1312(2)(a), each state bond issuer shall, upon issuance of the bonds, pay 30 cents per thousand of bonds ~~to~~ unless another fee is specifically provided for a type of

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

bonds. The fee must be deposited in the state general fund for the purpose of funding a portion of the comprehensive annual financial report audit.""

And, as amended, be concurred in. Report adopted.

HB 475, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

3/26/2009

SB 342, introduced bill, be amended as follows:

1. Title, line 11.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

2. Title, line 12.

Following: the first "DATE"

Insert: ", "

Strike: "AND A RETROACTIVE"

Insert: "AN"

Following: the second "DATE"

Insert: ", AND A TERMINATION DATE"

3. Page 1, line 29.

Strike: "or preschool program"

4. Page 1, line 30.

Strike: "qualifies at or below 150% of"

Insert: "is the child of a household with an income of 150% or less of the eligibility guidelines for"

Strike: "or"

Insert: "and"

Strike: "rate"

Insert: "program"

5. Page 2, line 4.

Strike: "or reduced"

Insert: "and reduced-price"

Strike: "rates"

Insert: "program eligibility guidelines"

6. Page 2, line 7.

Strike: "or reduced"

Insert: "and reduced-price"

Strike: "rates"

Insert: "program eligibility guidelines"

7. Page 2, line 12.

Strike: "is in the process of becoming accredited"

Insert: "has applied for accreditation or is provisionally accredited"

8. Page 2, line 13.

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Strike: "or other nationally recognized accreditation association"

9. Page 2, line 21.

Strike: "90%"

Insert: "95%"

10. Page 2, line 22.

Strike: "of their parents' choice"

Insert: "or program"

11. Page 2, line 24.

Following: "school"

Insert: "or group of affiliated schools"

12. Page 2, line 28.

Strike: "90%"

Insert: "95%"

13. Page 3, line 1.

Strike: "eligible private school"

Insert: "qualified school or program"

14. Page 3, lines 2 through 4.

Strike: "maintain" on line 2 through "schools" on line 4

Insert: "provide scholarships to attend a qualified school or program only to:

(i) students who when granted a scholarship were full-time public school students; or

(ii) students entering kindergarten or enrolling for the first time in a school in this state"

15. Page 3, line 5.

Strike: "\$2,500 in"

Following: "the"

Insert: "following"

Strike: "of each scholarship;"

Insert: "for scholarships for each year listed:

Calendar Year	Amount
---------------	--------

2011	\$2,000
------	---------

2012	\$2,000
------	---------

2013	\$2,000
------	---------

2014	\$2,000
------	---------

2015	\$2,500
------	---------

2016	\$2,500
------	---------

2017	\$2,500
------	---------

2018	\$3,000
------	---------

2019	\$3,000
------	---------

2020	\$3,000
------	---------

2020	\$3,500
------	---------

16. Page 3, line 6.

Following: "pupil a"

Insert: "transportation"

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

17. Page 3, line 12.

Strike: "120"

Insert: "60"

18. Page 3, line 23.

Following: "shall"

Insert: ", within 120 days after completion of the student scholarship organization's fiscal year,"

19. Page 3, line 24.

Strike: "by April 15 of each year"

20. Page 4, line 9.

Strike: the first "the private school"

Insert: "a qualified school or program"

Strike: the second "private school"

Insert: "qualified school or program"

21. Page 4, line 10.

Strike: "private school"

Insert: "qualified school or program"

22. Page 4, line 14.

Strike: "private" through "student"

Insert: "parent of an eligible student may not accept one or more scholarship awards from a student scholarship organization"

23. Page 4, line 15 through line 16.

Strike: "school" on line 15 through "scholarship" on line 16

Insert: "qualified school or program for that student"

24. Page 4, line 22.

Strike: "80%"

Insert: "70%"

Strike: "qualified education expenses"

Insert: "charitable donations made to student scholarship organizations"

25. Page 4, line 23.

Following: "individual"

Insert: ", "

Strike: "or"

Following: "household,"

Insert: " or a married taxpayer filing a separate return,"

26. Page 4, line 25.

Strike: "qualified education expenses"

Insert: "charitable donations made to student scholarship organizations"

27. Page 4, line 26.

Following: "taxpayer"

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Insert: "or otherwise engages in any attempt to directly or indirectly direct the distribution of the scholarships by the student scholarship organization"

28. Page 5, line 3.

Strike: "\$10.3 million"

Insert: "the following amount"

29. Page 5, line 4.

Strike: "a"

Insert: "the applicable"

Following: "year"

Strike: ". "

Insert: ":

Tax Year	Amount
2011	\$1.75 million
2012	\$2.75 million
2013	\$3 million
2014	\$4 million
2015	\$5 million
2016	\$6 million
2017	\$7 million
2018	\$8 million
2019	\$9 million
2020	\$10 million"

30. Page 5, line 8.

Following: "department"

Insert: "on or before October 1"

31. Page 5, line 10.

Following: "donor."

Insert: "If within 30 days the department fails to preapprove or deny the request, the request is considered approved."

32. Page 5, line 14.

Following: "(5)(a)"

Insert: "and the donor may not receive the credit"

33. Page 5, line 26.

Strike: "\"qualified education expense\""

Insert: "\"charitable donation\""

Strike: "expenditure"

Insert: "payment"

34. Page 5, line 28.

Following: "program"

Insert: "and to provide scholarships for transportation"

35. Page 6, line 3.

Strike: "80%"

Insert: "70%"

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Strike: "qualified education expenses"

Insert: "charitable donations made to student scholarship organizations"

36. Page 6, line 4.

Strike: "80%"

Insert: "the lesser of 70%"

Strike: "\$250,000, whichever is less."

Insert: ":

Tax Year	Amount
2011	\$90,000
2012	\$90,000
2013	\$110,000
2014	\$130,000
2015	\$150,000
2016	\$170,000
2017	\$190,000
2018	\$210,000
2019	\$230,000
2020	\$250,000"

37. Page 11, line 16.

Strike: "on passage and approval"

Insert: "January 1, 2011"

38. Page 11, lines 18 and 19.

Strike: "Retroactive applicability" on line 18

Insert: "Applicability"

Strike: "retroactively" on line 18 through "1-2-109," on line 19

Strike: "2008"

Insert: "2010"

39. Page 11, line 20.

Insert: "NEW SECTION. **Section 13. Termination.** [This act] terminates December 31, 2020."

And, as amended, do pass. Report adopted.

SPECIAL ORDERS OF THE DAY

SR 10 - Senator Steinbeisser moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolutions No. 10, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Stewart-Peregoy.

Total 1

SENATE JOURNAL
SIXTY-SEVENTH LEGISLATIVE DAY - MARCH 26, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, March 27, 2009. Motion carried.

Senate adjourned at 3:00 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
March 27, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

3/27/2009

Correctly printed: **SB 260, SB 465, SB 510, HB 144, HB 400, HB 475, HB 477, HB 495, HB 504, HB 530, HB 572, HB 635.**

Correctly engrossed: **SB 342, SB 499, HB 19, HB 95, HB 147, HB 328, HB 384, HB 488, HB 546, HB 563.**

Correctly enrolled: **SR 10.**

Signed by the Speaker at 10:30 a.m., March 27, 2009: **SB 250.**

Signed by the Secretary of the Senate at 3:45 p.m., March 26, 2009: **SB 250.**

Signed by the President at 8:45 a.m., March 27, 2009: **SB 250.**

Delivered to the Governor for approval at 11:25 a.m., March 27, 2009: **SB 74, SB 111, SB 143, SB 185, SB 188, SB 209, SB 250, SB 273, SB 340, SB 341, SB 395.**

Examined by the sponsor and found to be correct: **SR 10.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

3/27/2009

SB 38, introduced bill, be amended as follows:

1. Title, page 1, line 6 through line 7.

Following: "STOCK;"

Strike: "EXEMPTING SELLERS" on line 6 through "FEE PROVISIONS;" on line 7

Following: "AMENDING" on line 7

Strike: "SECTIONS 80-7-105 AND"

Insert: "SECTION"

Following: "PROVIDING AN"

Insert: "IMMEDIATE"

2. Page 1, line 12 through page 2, line 10.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 2, line 14 through line 15.

Following: "a license" on line 14

Strike: "for each location"

Following: "department." on line 15

Insert: "If the firm, nursery, or plant dealer sells or distributes nursery stock at more than one location, the firm, nursery, or plant dealer shall obtain:

(a) one license if its combined annual gross sales are less than \$10,000; and

(b) a license for each location if its gross annual sales are \$10,000 or more."

4. Page 2, line 23.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Following: "nursery stock"

Insert: "must be licensed but"

Following: "from licensing"

Insert: "fees"

5. Page 2, line 25.

Strike: "\$30"

Insert: "\$50"

6. Page 2, line 26.

Following: "\$3,000"

Strike: "or more"

Insert: "but less than \$10,000"

7. Page 2, line 27.

Strike: "\$95"

Insert: "\$125"

8. Page 2.

Following: line 27

Insert: "(d) A firm, nursery, or plant dealer that earns \$10,000 or more in gross annual sales of nursery stock shall pay a license fee of \$160."

Renumber: subsequent subsections

9. Page 3, line 3 through line 5.

Strike: subsection (5) in its entirety

Renumber: subsequent subsection

10. Page 3.

Following: line 7

Insert: "COORDINATION SECTION. Section 2. Coordination instruction. (1) If House Bill No. 478 is not passed and approved, then [this act] is void.

(2) If both House Bill No. 478 and [this act] are passed and approved, then [section 1] of House Bill No. 478, amending 80-7-105, is void and 80-7-105 must be amended as follows:

"80-7-105. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Firm" means an individual, company, partnership, association, or corporation.

(2) "Landscape service" means a firm that buys, sells, or resells nursery stock.

(3) "Nursery" means the business or location where nursery stock is grown or offered for sale or resale or as part of a landscape service.

(4) "Nursery stock" means botanically classified plants or parts of plants, including but not limited to tropical potted plants, aquatic plants, cut trees and their products, and turf or sod grass. The following plants and plant materials may not be considered nursery stock:

(a) field crop plants and seeds;

(b) pasture grasses;

(c) cut plants not for propagation;

(d) fruits or vegetables for human or animal consumption;

(e) cut trees and products that are going to be processed to a point that they no longer represent a pest risk; and

(f) plant debris for disposal or processing.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

(5) "Nursery stock certification" means the process by which the nursery stock or other plants have been inspected and found to meet certification standards established by department rule.

(6) "Plant dealer" means a firm that buys plants or plant products from a producer for the purpose of offering the plants or plant products for sale or resale or as part of a landscape service.

(7) "Plant inspection certificate" means a document issued by the department or the plant pest regulatory agency of another state that declares that the nursery stock, plants, or plant material grown by the firm named on the certificate is apparently free of injurious plant pests.

(8) "Plant pest" means an insect, weed, fungus, virus, bacteria, or other organism that can directly or indirectly injure or cause damage in a plant or a product of a plant and that meets the criteria as a pest established by department rule. For purposes of this chapter, noxious weeds, as defined in 7-22-2101(8)(a)(i), or other exotic weeds are defined as plant pests.

(9) "Small plant vendor" means a Montana firm that is engaged in the business of selling or distributing nursery stock, including coniferous Christmas decorations, and that:

(a) grows in Montana the nursery stock offered for sale or distribution; and

(b) has gross annual sales of less than \$1,000 in a calendar year."

11. Page 3, line 9.

Strike: "July 1, 2009"

Insert: "on passage and approval"

And, as amended, do pass. Report adopted.

SR 18, be adopted. Report adopted.

HR 478, be amended as follows:

1. Title, page 1, line 5.

Following: "LICENSURE"

Insert: "FEES"

2. Page 2, line 10.

Following: "means a"

Insert: "Montana"

3. Page 2, line 12.

Following: "grows"

Insert: "in Montana"

4. Page 2, line 13.

Strike: "\$3,000"

Insert: "\$1,000"

5. Page 3, line 4.

Following: "vendor"

Insert: "must be licensed but"

Following: "from the"

Insert: "license fee"

And, as amended, be concurred in. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

3/27/2009

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

SB 511, introduced bill, be amended as follows:

1. Page 1, line 12.

Following: "establishment"

Insert: "located in Montana"

2. Page 1, line 17.

Strike: "Establishments"

Insert: "Unless the sacramental wine is purchased on-site at the premises of the licensed retailer, an establishment"

Strike: "may"

Insert: "shall"

3. Page 1, line 18.

Following: "premises"

Insert: "using the establishment's own employees and equipment"

And, as amended, do pass. Report adopted.

HB 211, be concurred in. Report adopted.

HB 246, be concurred in. Report adopted.

HB 318, be amended as follows:

1. Page 2, line 18.

Strike: "\$750"

Insert: "\$250"

2. Page 2.

Following: line 26

Insert: "(c) Fees received pursuant to this section and any civil fines, fees, costs, or penalties received or recovered by the department of justice pursuant to [section 4] must be deposited into a state special revenue account to the credit of the department of justice and must be used to defray the expenses of the department in discharging its administrative and regulatory powers and duties in relation to [sections 1 through 4]. Civil penalties, costs, or settlements received by a county attorney must be paid to the general fund of the county in which any enforcement action was commenced."

And, as amended, be concurred in. Report adopted.

HB 357, be concurred in. Report adopted.

HB 374, be amended as follows:

1. Title, page 1, line 6 through line 7.

Strike: "INCREASING FINES" on line 6 through "LICENSE;" on line 7

2. Title, page 1, line 10.

Strike: "37-68-316,"

3. Page 5, line 17.

Strike: "4,000"

Insert: "2,000"

4. Page 6, line 23 through line 24.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Strike: "The" on line 23 through "basis." on line 24

5. Page 7, line 14 through line 15.

Strike: "The" on line 14 through "basis." on line 15

6. Page 9, line 5 through line 27.

Strike: section 12 in its entirety

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

3/26/2009

HB 584, be amended as follows:

1. Title, page 1, line 5.

Strike: "CERTIFICATION PROGRAM"

Insert: "BEST MANAGEMENT PRACTICE"

2. Title, page 1, line 6.

Strike: "A"

3. Title, page 1, line 7.

Strike: "CERTIFICATION PROGRAM"

Insert: "BEST MANAGEMENT PRACTICES"

4. Page 1, line 25.

Strike: "through a certification program"

5. Page 2, line 1 through line 4.

Strike: subsections (1) and (2) in their entirety

Insert: "(1) "Best management practice" means activities, procedures, and practices established by the department based on recommendations by the committee established in [section 4] that a wind generation facility can use to minimize impacts on wildlife, wildlife habitat, and historical and cultural sites."

Renumber: subsequent subsections

6. Page 2.

Following: line 18

Insert: "(5) "Wind generation facility" means the owner of a proposed wind generation facility with a nameplate capacity greater than 5 megawatts."

7. Page 2, line 20.

Strike: "certification program"

Insert: "best management practices"

8. Page 2, line 21.

Following: "shall"

Insert: "develop proposed voluntary best management practices.

(2) Prior to adopting the proposed best management practices, the department shall"

Strike: the second "a"

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

9. Page 2, line 22.

Strike: "certification program"

Insert: "best management practices"

10. Page 2, line 23.

Strike: "(2)"

Insert: "(3)"

Strike: "program and recommendations for"

Insert: "best management practices, including"

11. Page 2, line 24 through line 26.

Strike: "applicant" on line 24 through the first "for" on line 26

12. Page 2, line 26 through page 27.

Strike: "when" on line 26 through "requested" on line 27

Insert: "on the proposed best management practices"

13. Page 1, line 28.

Strike: line 28

14. Page 2, line 29.

Strike: "(e)"

Insert: "(b)"

Strike: "for the program;"

Insert: "that are available or are recommended to be available so that wind generation facilities use best management practices; and"

15. Page 2, line 30 through page 3, line 3.

Strike: line 30 through line 3

Insert: "(c) places where the department's proposed best management practices are different from those recommended by the committee established in [section 4]."

16. Page 3, line 4.

Strike: "(3)"

Insert: "(4)"

Strike: "certification"

Insert: "best management practice"

17. Page 3, line 5.

Strike: the first "recommendation"

Insert: "best management practice recommendation"

Strike: the second "recommendation"

Insert: "best management practice proposal"

18. Page 3, line 6.

Strike: "(2)"

Insert: "(3)"

19. Page 3, line 8.

Strike: "certification"

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Insert: "best management practice"

20. Page 3, line 9.

Strike: "certification"

Insert: "best management practice"

21. Page 3, line 11.

Strike: "at least"

Strike: "a minimum of"

22. Page 3, line 12.

Strike: "four"

Insert: "six"

Strike: "generating"

Following: "Montana"

Insert: ", developers of wind facilities, or both"

23. Page 3, line 14.

Strike: "two representatives"

Insert: "one representative"

24. Page 2, line 15.

Strike: "two representatives"

Insert: "one representative"

25. Page 3, line 17.

Following: "Additional"

Insert: "ex officio"

26. Page 3, line 25.

Strike: "certification"

Insert: "best management practice"

27. Page 3, line 26.

Strike: "a"

28. Page 3, line 27.

Strike: "certification program"

Insert: "best management practices"

29. Page 3, line 28.

Strike: "an"

30. Page 3, line 29.

Strike: "applicant" through "measures"

Insert: "a wind generation facility implements best management practices"

31. Page 4, line 1.

Strike: "an applicant"

Insert: "a wind generation facility"

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Strike: "be required to"

32. Page 4, line 4.

Strike: "measures necessary"

Insert: "best management practices recommended"

33. Page 4, line 6.

Strike: line 6

34. Page 4, line 7.

Strike: "(e)"

Insert: "(d)"

Strike: "pursue certification;"

Insert: "use best management practices; and"

35. Page 4, line 8 through line 11.

Strike: line 8 through line 11

36. Page 4, line 12.

Strike: "(h)"

Insert: "(e)"

Strike: "a"

37. Page 4, line 13.

Strike: "certification program"

Insert: "best management practices"

38. Page 4, line 19.

Following: "develop"

Insert: "best management practice"

39. Page 4, line 20.

Strike: "Recommendations"

Insert: "Best management practice recommendations"

40. Page 4, line 22.

Following: the third "the"

Insert: "proposed best management practices and the"

41. Page 4, line 23.

Strike: "and recommendations"

And, as amended, be concurred in. Report adopted.

FISH AND GAME (Barkus, Chairman):

3/27/2009

HB 190, be amended as follows:

1. Page 1, line 30.

Strike: ", conditionally,"

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

2. Page 2, line 4.

Strike: subsection (3) in its entirety

Insert: "(3) that the legislation neither create any right nor extinguish any right related to county roads established by prescriptive use that exist at the time of passage; "

Renumber: subsequent subsections

3. Page 3, line 6.

Following: line 5

Insert: "(3) The provisions in [sections 1 and 3] and this section related to public access to surface waters for recreational use neither create nor extinguish any right related to county roads established by prescriptive use that exist on [the effective date of this act].

(4) For purposes of determining liability, a person accessing surface waters for recreational use pursuant to this section is owed no duty by a landowner or an agent or tenant of that landowner other than for an act or omission that constitutes willful or wanton misconduct."

4. Page 3, line 14.

Following: "characteristics of"

Insert: "an access feature of"

5. Page 3, line 15.

Following: "Examples of"

Insert: "an access feature of"

6. Page 3, line 23.

Following: line 22

Insert: "(b) It may only be necessary to locate one access feature on each side of the surface water. When practicable, one access feature must be located on the downstream bridge edge, guardrail, or abutment. The department may waive these provisions when one access feature is sufficient."

Renumber: subsequent subsections

7. Page 3, line 30 through page 4, line 1.

Strike: subsection (4) in its entirety

And, as amended, be concurred in. Report adopted.

HB 443, be amended as follows:

1. Title, page 1, line 5 through line 6.

Strike: "DEFINITIONS" on line 5 through "AND" on line 6

Insert: "THE DEFINITION OF"

Strike: "GRANTING RULEMAKING AUTHORITY;" on line 6

2. Title, page 1, line 6 through line 7.

Strike: "SECTIONS 87-2-101," on line 6

Insert: "SECTION"

Strike: "AND 87-5-105,"

3. Page 1, line 11 through page 2, line 26.

Strike: section 1 in its entirety

Renumber: subsequent sections

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

4. Page 3, line 20.

Strike: "included" through "87-2-101"

Insert: "legally classified by statute or regulation of this state"

5. Page 3, line 22.

Following: "~~part:~~"

Insert: "Animals designated by statute or regulation of this state as predatory in nature are not classified as nongame wildlife for purposes of this part."

6. Page 4, line 1 through line 12.

Strike: section 3 in its entirety

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 499, be concurred in. Report adopted.

HJR 15, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

3/27/2009

HB 103, be concurred in. Report adopted.

HB 116, be concurred in. Report adopted.

HB 356, be concurred in. Report adopted.

HB 371, be concurred in. Report adopted.

HB 373, be concurred in. Report adopted.

HB 380, be concurred in. Report adopted.

HB 416, be concurred in. Report adopted.

HB 531, be amended as follows:

1. Title, page 1, line 5.

Following: "DEVICE;"

Insert: "PROVIDING EXCEPTIONS;"

2. Page 1.

Following: "(5)" on line 24

Insert: "(a)"

Following: line 25

Insert: "(b) Subsection (5)(a) does not apply to automated enforcement systems attached to traffic control devices at railroad grade crossings."

3. Page 2.

Following: "(2)" on line 3

Insert: "(a)"

Following: line 4

Insert: "(b) Subsection (2)(b) does not apply to automated enforcement systems attached to traffic control devices at railroad grade crossings."

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

House bills passed and transmitted to the Senate for concurrence:

3/27/2009

HB 52, introduced by McNutt
HB 110, introduced by Sesso
HB 280, introduced by Hunter
HB 464, introduced by O'Hara
HB 472, introduced by Dick Barrett
HB 562, introduced by Cohenour
HB 578, introduced by Caferro
HB 583, introduced by Fleming
HB 634, introduced by McAlpin
HB 644, introduced by Sesso
HB 645, introduced by Sesso
HB 664, introduced by Jopek
HB 676, introduced by Sesso

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 52, introduced by McNutt (by request of the Water Policy Committee), referred to Natural Resources.
HB 110, introduced by Sesso (by request of the Legislative Finance Committee), referred to State Administration.
HB 280, introduced by Hunter, referred to Public Health, Welfare and Safety.
HB 464, introduced by O'Hara, Ankney, Arntzen, Bean, P. Beck, Belcourt, Blewett, Driscoll, Ebinger, Fleming, French, Glaser, Hamilton, Hendrick, Himmelberger, Hollandsworth, Hoven, Jones, Klock, Malek, McAlpin, McClafferty, McNutt, Mehlhoff, Milburn, Nooney, J. Peterson, Pomnichowski, Randall, Reichner, Roberts, Smith, Sonju, Stahl, Steenson, Taylor, Washburn, Welborn, Wilson, Barkus, Debbie Barrett, Black, Brenden, T. Brown, Brueggeman, Cooney, Gebhardt, Hawks, Jackson, Larsen, Murphy, Perry, J. Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, referred to Finance and Claims.
HB 472, introduced by Dick Barrett, Vincent, referred to Local Government.
HB 562, introduced by Cohenour, referred to Taxation.
HB 578, introduced by Caferro, referred to Public Health, Welfare and Safety.
HB 583, introduced by Fleming, French, Black, Brueggeman, Getz, Campbell, Taylor, Grinde, Steinbeisser, Keane, Warburton, referred to Agriculture, Livestock and Irrigation.
HB 634, introduced by McAlpin, McChesney, Van Dyk, Villa, Sands, Augare, Wiseman, Malek, Steenson, P. Noonan, Furey, Pomnichowski, Caferro, McClafferty, MacDonald, Fleming, Campbell, Ebinger, Reinhart, referred to Judiciary.
HB 644, introduced by Sesso, A. Noonan, Gallus, Laslovich, Hiner, Villa, P. Noonan, Keane, McClafferty, referred to Finance and Claims.
HB 645, introduced by Sesso (by request of the House Appropriations Standing Committee), referred to Finance and Claims.
HB 664, introduced by Jopek, Blasdel, referred to Agriculture, Livestock and Irrigation.
HB 676, introduced by Sesso (by request of the House Appropriations Standing Committee), referred to Finance and Claims.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 33, introduced by Perry (by request of the Senate Judiciary Standing Committee), referred to Business, Labor, and Economic Affairs.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 21, introduced by J. Tropila (by request of the Senate Business, Labor, and Economic Affairs Standing Committee), referred to Business, Labor, and Economic Affairs.

SR 22, introduced by J. Tropila (by request of the Senate Business, Labor, and Economic Affairs Standing Committee), referred to Business, Labor, and Economic Affairs.

SR 23, introduced by R. Brown (by request of the Senate Public Health, Welfare, and Safety Committee), referred to Public Health, Welfare and Safety.

SR 24, introduced by Perry (by request of the Senate Judiciary Standing Committee), referred to Judiciary.

SR 25, introduced by Barkus (by request of the Senate Fish and Game Standing Committee), referred to Fish and Game.

SR 26, introduced by Shockley (by request of the Senate State Administration Standing Committee), referred to State Administration.

SR 27, introduced by Shockley (by request of the Senate State Administration Standing Committee), referred to State Administration.

SR 28, introduced by Shockley (by request of the Senate State Administration Standing Committee), referred to State Administration.

SPECIAL ORDERS OF THE DAY

Senator Brueggeman read the following Joint Proclamation:

**A JOINT PROCLAMATION OF THE SENATE AND THE HOUSE OF
REPRESENTATIVES OF THE STATE OF MONTANA**

March 27, 2009

Commending Michael W. Haynes, a 28-year-old Trooper with the Montana Highway Patrol, for his service to the State of Montana;

Whereas, Trooper Haynes was the beloved son of John and Melody Haynes of Kalispell, the loving husband of Tawny, and devoted father of Taryn and Elias; and

Whereas, Trooper Haynes was a hardworking man, dedicated to his job with the Highway Patrol, who lived the example of the core duties of the Patrol: service, integrity, and respect; and

Whereas, Trooper Haynes was sworn in to duty on August 10, 2006, and stationed in Baker and assumed his Kalispell duty station on October 1, 2007; and

Whereas, Trooper Haynes was injured in the line of duty while on patrol of U.S. Highway 93 in the early morning hours of March 23, 2009, and he succumbed to his injuries on March 27, 2009;

**THEREFORE BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
THE STATE OF MONTANA:**

That the members of this body recognize the dedication of Trooper Haynes to the citizens of the State of Montana and the sacrifice he made. The members of this body further extend condolences to the family of Trooper Haynes and extend best wishes for strength in this difficult time.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Senator Robert R. Story Jr.
President of the Senate

Representative Bob Bergren
Speaker of the House

Sen. John Brueggeman, Chairman
Highways & Transportation Committee

Rep. Jon Sonju, Chairman
Transportation Committee

MOTIONS

Senator Peterson moved the Senate recess until 1:30 p.m. for the purpose of caucuses. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

Roll Call. All members present. Quorum present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brenden in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 370 - Senator Perry moved **SB 370** do pass.

SB 370 - Senator Perry moved **SB 370**, second reading copy, be amended as follows:

1. Page 3, line 24.

Following: "(2)"

Insert: "(a)"

Strike: "EACH"

Insert: "Except as provided in subsection (2)(b), each"

2. Page 3.

Following: line 25

Insert: "(b) Permitted operations that mine, extract, or produce bentonite are not subject to the fee provided in this section."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 370 - Senator Perry moved **SB 370**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, R. Brown, Gallus, Hinkle, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Brueggeman excused at this time.

SB 509 - Senator Gebhardt moved **SB 509** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 31

Nays: Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 18

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

Senator Brueggeman present at this time.

SB 342 - Senator Essmann moved **SB 342** do pass. Motion **failed** as follows:

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Shockley, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 24

Nays: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 342 - Senator Williams moved **SB 342** be **indefinitely postponed**. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams.
Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Shockley, Windy Boy, Zinke, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 163 - Senator Gillan moved **HB 163** be concurred in. Motion carried as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Ripley, Shockley, Steinbeisser, Zinke, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

resident Story in the chair. Chairman Brenden moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 260 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Cooney, Erickson, Hamlett, Juneau, Kaufmann, Laslovich, McGee, Squires, Stewart-Peregoy.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 465 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 491 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 510 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 39

Nays: Hawks, Jent, Juneau, Kaufmann, Larsen, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 144 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Gallus, McGee, Perry.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 386 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

Total 48

Nays: Esp, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 400 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 40

Nays: Curtiss, Esp, Gillan, Hansen, Jent, Juneau, McGee, Schmidt, Stewart-Peregoy, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 530 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Hawks, Jent, Keane, McGee, Perry.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Barkus thanked the Pages for their work during the week of March 23-28, 2009.

SENATE JOURNAL
SIXTY-EIGHTH LEGISLATIVE DAY - MARCH 27, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Saturday, March 28, 2009. Motion carried.

Senate adjourned at 3:02 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SIXTY-NINTH LEGISLATIVE DAY**

Helena, Montana
March 28, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Senator McGee. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy, excused. Quorum present.

BILLS AND JOURNALS:

3/28/2009

Correctly printed: **SB 509, SJR 33, SR 18, SR 21, SR 22, SR 23, SR 24, SR 25, SR 26, SR 27, SR 28, HB 103, HB 116, HB 163, HB 211, HB 246, HB 356, HB 357, HB 371, HB 373, HB 380, HB 416, HB 499, HJR 15.**

Correctly engrossed: **SB 38, SB 370, SB 511, HB 190, HB 318, HB 374, HB 443, HB 478, HB 531, HB 584.**

Signed by the President at 7:30 a.m., March 28, 2009: **SR 10.**

Signed by the Secretary of the Senate at 12:55 p.m., March 27, 2009: **SR 10.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth, fifty-seventh, fifty-eighth, fifty-ninth, and sixtieth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman):
HB 628, be amended as follows:

3/27/2009

1. Title, line 6 through line 7.

Following: "'AN ACT" on line 6

Strike: remainder of line 6 through "DEATH;" on line 7

2. Title, line 8.

Following: "PROSECUTION"

Strike: "AND PROVIDING PENALTIES"

Insert: "OF CARELESS DRIVING RESULTING IN DEATH AND RECKLESS DRIVING RESULTING IN DEATH"

Strike: "SECTIONS"

Insert: "SECTION"

3. Title, line 8 through line 9.

Following: "45-1-205," on line 8

Strike: remainder of line 8 through "61-8-716," on line 9

4. Page 3, line 1.

Following: "death"

Strike: "under 61-8-301"

5. Page 3, line 3.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Following: "death"

Strike: "under 61-8-302"

6. Page 3, line 6 through page 5, line 18.

Strike: section 2 through section 6 in their entirety

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/27/2009

HB 420, be amended as follows:

1. Page 2, line 25.

Following: "adopt"

Insert: "voluntary"

Strike: "BASED ON"

Insert: "for the purpose of"

2. Page 4, line 26.

Following: "adopt"

Insert: "voluntary"

3. Page 4, line 27.

Strike: "BASED ON"

Insert: "for the purpose of"

4. Page 5, line 25.

Following: "adopt"

Insert: "voluntary"

5. Page 5, line 26.

Strike: "BASED ON"

Insert: "for the purpose of"

6. Page 6, line 28.

Following: "with the"

Insert: "voluntary"

7. Page 6, line 29 through page 7, line 3.

Strike: "؛" on page 6, line 29 through "INCENTIVE" on page 7, line 3

Insert: "the building meets or exceeds those standards"

And, as amended, be concurred in. Report adopted.

HB 630, be amended as follows:

1. Title, lines 9 and 10.

Strike: "EXCLUDING" on line 9 through "LEVIES;" on line 10

2. Title, line 11.

Following: "7-12-4225,"

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Insert: "AND"

3. Title, line 12.

Strike: "AND 15-10-420,"

4. Page 9, line 22 through page 11, line 28.

Strike: section 9 in its entirety

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 34, introduced by Juneau, referred to Education and Cultural Resources.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 29, introduced by Steinbeisser, referred to Agriculture, Livestock and Irrigation.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 73 - House Amendments - Senator Hawks moved House amendments to **SB 73 be not concurred in**. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

SB 79 - House Amendments - Senator Juneau moved House amendments to **SB 79 be not concurred in**. Motion carried as follows:

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

SB 108 - House Amendments - Senator Jent moved House amendments to **SB 108 be not concurred in**. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

HB 19 - Senator Shockley moved **HB 19** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

HB 95 - Senator Shockley moved **HB 95** be concurred in. Motion carried as follows:

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Brueggeman, Erickson, Perry, Stewart-Peregoy.

Total 5

Senator Brueggeman present at this time.

Senator Keane excused at this time.

HB 147 - Senator Cooney moved **HB 147** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brueggeman, Cooney, Esp, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 27

Nays: Balyeat, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gallus, Gebhardt, Hinkle, Jackson, McGee, Murphy, Peterson, Ripley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Keane, Perry, Stewart-Peregoy.

Total 5

Senator Keane present at this time.

HB 177 - Senator Laslovich moved **HB 177** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

HB 218 - Senator Jent moved consideration of **HB 218** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 222 - Senator Jent moved **HB 222** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Gebhardt, Hinkle, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

HB 301 - Senator Laslovich moved **HB 301** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

HB 328 - Senator Shockley moved **HB 328** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: McGee.
Total 1

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Absent or not voting: None.
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

HB 362 - Senator J. Peterson moved consideration of **HB 362** be placed at the bottom of the second reading board.
Motion carried.

HB 403 - Senator Larsen moved **HB 403** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

HB 488 - Senator Laible moved **HB 488** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Cooney, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke.
Total 29

Nays: Balyeat, Barrett, Brenden, R. Brown, Curtiss, Esp, Gallus, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Tutvedt, Wanzenried, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

HB 517 - Senator Esp moved **HB 517** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

HB 542 - Senator J. Tropila moved **HB 542** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

Senator McGee assumed the chair.

HB 544 - Senator R. Brown moved **HB 544** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Cooney, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.
Total 4

HB 546 - Senator Gillan moved **HB 546** be concurred in. Motion carried as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Peterson, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 33

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Nays: Bales, Balyeat, Brenden, R. Brown, Curtiss, Esp, Gebhardt, Hinkle, Murphy, Ripley, Shockley, Tutvedt, Zinke.

Total 13

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

HB 557 - Senator Windy Boy moved **HB 557** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

HB 563 - Senator Laslovich moved **HB 563** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 43

Nays: Gebhardt, Jackson, Zinke.

Total 3

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

HJR 4 - Senator Curtiss moved **HJR 4** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 33

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Nays: Branae, Cooney, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Wanzenried, Williams.

Total 13

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

HB 338 - Senator Black moved **HJR 338** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Murphy, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 40

Nays: Balyeat, Cooney, Kaufmann, McGee, Moss, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

HB 343 - Senator Gebhardt moved **HJR 343** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Shockley, M. Tropila.

Total 2

Absent or not voting: None.

Total 0

Excused: Barkus, Erickson, Perry, Stewart-Peregoy.

Total 4

HB 402 - Senator Gebhardt moved **HJR 402** be concurred in.

Senator Perry present at this time.

Senator Barkus present at this time.

HB 402 - Senator Brenden moved **HB 402**, second reading copy, be amended as follows:

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

1. Title, page 1, line 5.

Strike: "REMOVING THE SUNSET OF THE LAND BANKING PROGRAM;"

2. Page 1, line 13.

Strike: "250,000"

Insert: "175,000"

3. Page 1, line 15.

Strike: "20,000"

Insert: "10,000"

4. Page 1.

Following: line 18

Insert: "(c) Except as provided in subsection (1)(d), of the total state land in a single county, the board may not sell more than 2% in a single year.

(d) The board may exceed the limit established in subsection (1)(c) if the sale would increase the taxable value of the affected county by more than 2% and the board has consulted with and received comment from the governing body of the county. The board may proceed with a proposed sale under this subsection (1)(d) after comments have been received from the governing body or the governing body has indicated in writing that it will have no comments or 90 days have elapsed, whichever occurs first."

5. Page 1, line 21.

Strike: "20% "

Insert: "10% "

6. Page 2, line 9.

Strike: "10"

Insert: "30"

7. Page 2, line 16.

Following: "~~limit~~"

Insert: "process -- time limit"

8. Page 2.

Following: line 20

Insert: "(1) State land may not be sold through the land banking process pursuant to 77-2-361 through 77-2-367 after October 1, 2011. Land banking purchases under 77-2-364 may continue after October 1, 2011, until all the proceeds in the state land bank fund are expended or revert to the public school fund or the permanent fund of the respective trust pursuant to 77-2-362(2)(d)."

9. Page 2, line 21.

Following: "~~(2)~~"

Insert: "(2)"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Mr. President.

Total 20

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Nays: Branae, Brueggeman, Cooney, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 28

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 402 - Senator Gebhardt moved **HB 402** be concurred in. Motion carried as follows:

Yeas: Barrett, Branae, T. Brown, Brueggeman, Cooney, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 33

Nays: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, McGee, Perry, Peterson, Ripley, Shockley, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 490 - Senator J. Peterson moved consideration of **HB 490** be passed for the day. Motion carried.

SB 503 - Senator Essmann moved **SB 503** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 29

Nays: Branae, Cooney, Gallus, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 19

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

SB 506 - Senator Essmann moved **SB 506** do pass.

SB 506 - Senator Essmann moved **SB 506**, second reading copy, be amended as follows:

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

1. Title, line 7.

Strike: ", DISTRIBUTION TO CERTAIN NEARBY LOCAL GOVERNMENTS,"

2. Page 2, line 20.

Strike: "Proceeds"

Insert: "The amount of 100% of the proceeds"

3. Page 2, line 23 and line 24.

Strike: "as follows:" on line 23 through "used" on line 24

Following: "offset" on line 24

Strike: ";"

Insert: "unless"

4. Page 2, line 25.

Strike: "(b)" on line 25 through ", or" on line 26

Following: "expenditures"

Insert: "are"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.

Total 38

Nays: Hansen, Jent, Larsen, Laslovich, Moss, Shockley, J. Tropila, M. Tropila, Wanzenried, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

SB 506 - Senator Essmann moved **SB 506**, as amended, do pass. Motion **failed** as follows:

Yeas: Branae, R. Brown, Brueggeman, Cooney, Essmann, Gebhardt, Gillan, Hawks, Juneau, Kaufmann, Moss, Schmidt, Williams.

Total 13

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Curtiss, Esp, Gallus, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 35

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

SB 506 - Senator Williams moved **SB 506** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Gallus, Hamlett, Hansen, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Branae, T. Brown, Brueggeman, Cooney, Essmann, Gebhardt, Gillan, Hawks, Jackson, Kaufmann, Moss, Ripley.
Total 12

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

SB 508 - Senator Brueggeman moved consideration of **SB 508** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 378 - Senator Wanzenried moved **HB 378** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 404 - Senator McGee moved **HB 404** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 412 - Senator Barkus moved **HB 412** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 483 - Senator Black moved **HB 483** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Nays: Branae, Brueggeman, Cooney, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

Senator McGee assumed the chair.

HB 567 - Senator R. Brown moved **HB 567** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

Senator R. Brown re-assumed the chair.

HJR 14 - Senator Hinkle moved **HJR 14** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Mr. President.

Total 31

Nays: Branae, Cooney, Esp, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Wanzenried, Williams, Windy Boy, Zinke.

Total 17

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

SB 489 - Senator Essmann moved **SB 489** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Black, Juneau, Kaufmann.

Total 3

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

SB 507 - Senator Story moved **SB 507** do pass.

SB 507 - Senator Story moved **SB 507**, second reading copy, be amended as follows:

1. Page 2, line 10.

Following: ". "

Insert: The annual payment for a license issued under [sections 1 through 7] is \$150.

2. Page 4, line 22.

Following: "payment"

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Insert: "for leases and easements"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

SB 507 - Senator Story moved **SB 507**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 39

Nays: Cooney, Gillan, Juneau, Kaufmann, Moss, Schmidt, Squires, Wanzenried, Williams.
Total 9

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 71 - Senator Ripley moved **HB 71** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Esp, Gallus, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Total 2

HB 85 - Senator Juneau moved **HB 85** be concurred in. Motion carried as follows:

Yeas: Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 30

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Essmann, Hinkle, Jackson, Keane, Laslovich, McGee, Peterson, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 18

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

HB 104 - Senator Zinke moved **HB 104** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Ripley.

Total 1

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

HB 161 - Senator Juneau moved **HB 161** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Total 2

HB 409 - Senator Larsen moved **HB 409** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

HB 509 - Senator Cooney moved **HB 509** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

HB 588 - Senator T. Brown moved **HB 588** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Total 2

HB 591 - Senator Shockley moved **HB 591** be concurred in.

HB 591 - Senator Shockley moved **HB 591**, second reading copy, be amended as follows:

1. Title, line 5.

Following: "OF A"

Insert: "STATE-RECOGNIZED OR"

2. Page 1, line 22.

Following: "OF A"

Insert: "state-recognized or"

3. Page 1, line 23.

Following: "MONTANA."

Insert: "The tribal member may not be required to hear and act on all American Indian applications before the board."

Amendment adopted as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

HB 591 - Senator Shockley moved **HB 591**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Brenden, T. Brown, Gebhardt, Ripley.

Total 4

Absent or not voting: None.

Total 0

Excused: Erickson, Stewart-Peregoy.

Total 2

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

HB 626 - Senator Debby Barrett moved **HB 626** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Bales.
Total 1

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HJR 1 - Senator Hawks moved **HJR 1** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Barkus, Brenden, Brueggeman, Esp, Hinkle, McGee, Steinbeisser.
Total 7

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 218 - Senator Jent moved **HB 218** be concurred in.

HB 218 - Senator Jent moved **HB 218**, second reading copy, be amended as follows:

1. Page 6, line 15.

Following: "(3)"

Insert: "(a)"

2. Page 6, line 16.

Following: line 15

Insert: "(b) Pelts of muskrat and beaver killed pursuant to 87-3-501(2) are exempt from this section."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires,

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 218 - Senator Jent moved **HB 218**, as amended, be concurred in. Motion carried as follows:

Bales, Barkus, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Balyeat, Barrett, Brenden, R. Brown, Essmann, Gebhardt, Hinkle, McGee, Ripley, Steinbeisser.
Total 10

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

HB 362 - Senator Perry moved **HB 362** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

SB 508 - Senator J. Peterson moved consideration of **SB 508** be passed for the day. Motion carried.

Senator Peterson moved the committee rise and report and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

REPORTS OF STANDING COMMITTEES

LOCAL GOVERNMENT (Esp, Chairman):
HB 486, be amended as follows:

3/28/2009

1. Title, line 4.

Strike: "ANNEXATION AND SUBDIVISION"

Insert: "LAND USE"

Following: "LAWS;"

Insert: "CLARIFYING SUBDIVISION REVIEW FOR CONDOMINIUMS; INCLUDING SAND AND GRAVEL RESOURCES AMONG THE ITEMS THAT MUST BE MAPPED IN A GROWTH POLICY;"

2. Title, line 7.

Following: "CONDITION;"

Insert: "PROVIDING PENALTIES FOR VIOLATION OF CERTAIN ZONING REGULATIONS; REQUIRING A COUNTY TO ATTEMPT TO OBTAIN COMPLIANCE WITH ZONING REGULATIONS BEFORE FILING A COMPLAINT; REVISING PUBLIC NOTICE REQUIREMENTS FOR ZONING AND REQUIRING PUBLIC NOTICE FOR INTERIM ZONING;"

3. Title, line 10.

Following: "SECURITY;"

Insert: "PROVIDING THAT A PARK DEDICATION MAY NOT BE REQUIRED FOR A FIRST MINOR SUBDIVISION FROM A TRACT OF RECORD;"

4. Title, line 11.

Following: "70-23-301,"

Insert: "76-1-601,"

Following: "76-2-107,"

Insert: "76-2-113,"

Following: "76-2-205,"

Insert: "76-2-206, 76-2-210,"

5. Title, line 12.

Following: "76-3-507,"

Insert: "76-3-510,"

Following: "76-3-620,"

Insert: "76-3-621,"

6. Page 3.

Following: line 1

Insert: "Section 2. Section 76-1-601, MCA, is amended to read:

"76-1-601. Growth policy -- contents. (1) A growth policy may cover all or part of the jurisdictional area.

(2) The extent to which a growth policy addresses the elements listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

- (iii) housing needs;
- (iv) economic conditions;
- (v) local services;
- (vi) public facilities;
- (vii) natural resources; ~~and~~
- (viii) sand and gravel resources; and
- ~~(viii)~~(ix) other characteristics and features proposed by the planning board and adopted by the governing bodies;
- (c) projected trends for the life of the growth policy for each of the following elements:
 - (i) land use;
 - (ii) population;
 - (iii) housing needs;
 - (iv) economic conditions;
 - (v) local services;
 - (vi) natural resources; and
 - (vii) other elements proposed by the planning board and adopted by the governing bodies;
- (d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);
- (e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;
- (f) an implementation strategy that includes:
 - (i) a timetable for implementing the growth policy;
 - (ii) a list of conditions that will lead to a revision of the growth policy; and
 - (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;
- (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:
 - (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;
 - (ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;
- (h) a statement explaining how the governing bodies will:
 - (i) define the criteria in 76-3-608(3)(a); and
 - (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a);
- (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted; and
- (j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or not there is a need to:
 - (i) delineate the wildland-urban interface; and
 - (ii) adopt regulations requiring:
 - (A) defensible space around structures;
 - (B) adequate ingress and egress to and from structures and developments to facilitate fire suppression activities; and
 - (C) adequate water supply for fire protection.
- (4) A growth policy may:
 - (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.
 - (b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;
 - (c) establish an infrastructure plan that, at a minimum, includes:
 - (i) projections, in maps and text, of the jurisdiction's growth in population and number of residential, commercial, and industrial units over the next 20 years;
 - (ii) for a city, a determination regarding if and how much of the city's growth is likely to take place outside

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate infrastructure planning with the county or counties where growth is likely to take place;

(iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20 years;

(iv) for cities, a land use map showing where projected growth will be guided and at what densities within city boundaries;

(v) for cities and counties, a land use map that designates infrastructure planning areas adjacent to cities showing where projected growth will be guided and at what densities;

(vi) using maps and text, a description of existing and future public facilities necessary to efficiently serve projected development and densities within infrastructure planning areas, including, whenever feasible, extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer systems, wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency services;

(vii) a description of proposed land use management techniques and incentives that will be adopted to promote development within cities and in an infrastructure planning area, including land use management techniques and incentives that address issues of housing affordability;

(viii) a description of how and where projected development inside municipal boundaries for cities and inside designated joint infrastructure planning areas for cities and counties could adversely impact:

(A) threatened or endangered wildlife and critical wildlife habitat and corridors;

(B) water available to agricultural water users and facilities;

(C) the ability of public facilities, including schools, to safely and efficiently service current residents and future growth;

(D) a local government's ability to provide adequate local services, including but not limited to emergency, fire, and police protection;

(E) the safety of people and property due to threats to public health and safety, including but not limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;

(F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel resources, streams, rivers, lakes, wetlands, and ground water; and

(G) agricultural lands and agricultural production; and

(ix) a description of measures, including land use management techniques and incentives, that will be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

(5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter."

Renumber: subsequent sections

7. Page 3, line 13.

Strike: "60 days"

Insert: "6 months"

8. Page 4.

Following: line 18

Insert: "NEW SECTION. Section 6. Violations and penalties. A violation of this part or of a resolution adopted pursuant to this part is a misdemeanor and is punishable by a fine of up to \$500 or by imprisonment in the county jail for a term not exceeding 6 months, or both. The violation is an absolute liability offense as provided for in 45-2-104."

Insert: "Section 7. Section 76-2-113, MCA, is amended to read:

"76-2-113. Enforcement of zoning provisions. (1) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may take any appropriate action or begin proceedings to:

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

~~(1)~~(a) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
~~(2)~~(b) restrain, correct, or abate a violation;
~~(3)~~(c) prevent the occupancy of a building, structure, or land; or
~~(4)~~(d) prevent any illegal act, conduct, business, or use in or near the premises.
(2) The county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under [section 6]."

Renumber: subsequent sections

9. Page 4, line 30.

Strike: "60 days"

Insert: "6 months"

10. Page 6, lines 21 and 22.

Strike: "must" on line 21 through "notice" on line 22

Following: "must" on line 22

Insert: ": (a)"

11. Page 6, line 23.

Strike: "(a)"

Insert: "(i)"

12. Page 6, line 24.

Strike: "(b)"

Insert: "(ii)"

13. Page 6, line 25.

Strike: "(c)"

Insert: "(iii)"

14. Page 6, line 26.

Strike: "(d)"

Insert: "(iv)"

15. Page 6, line 27.

Following: "recorder"

Insert: ";

(b) be posted not less than 45 days before the public hearing in at least five public places within the proposed district; and

(c) be published once a week for 2 weeks in a newspaper of general circulation within the county"

16. Page 7.

Following: line 20

Insert: "**Section 11.** Section 76-2-206, MCA, is amended to read:

"76-2-206. Interim zoning map or regulation. (1) The Subject to subsection (3), the board of county commissioners may ~~adopt~~ establish an interim zoning ~~map~~ district or interim regulation as an emergency measure in order to promote the public health, safety, morals, and general welfare if:

(a) the purpose of the interim zoning ~~map~~ district or interim regulation is to classify and regulate those uses and related matters that constitute the emergency; and

(b) the county:

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

(i) is conducting or in good faith intends to conduct studies within a reasonable time; or
(ii) has held or is holding a hearing for the purpose of considering any of the following:
(A) a growth policy;
(B) zoning regulations; or
(C) a revision to a growth policy, to a master plan, as provided for in 76-1-604(6) and 76-2-201(2), or to zoning regulations pursuant to this part.

(2) ~~An interim~~ A resolution for an interim zoning district or interim regulation must be limited to 1 year from the date it becomes effective. ~~The~~ Subject to subsection (3)(c), the board of county commissioners may extend the ~~interim~~ resolution for 1 year, but not more than one extension may be made.

(3) The board of county commissioners shall observe the following procedures in the establishment of an interim zoning district or interim regulation:

(a) Notice of a public hearing on the proposed interim zoning district boundaries or of the interim regulation must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

(i) the boundaries of the proposed district;
(ii) the specific emergency or exigent circumstance compelling the establishment of the proposed interim zoning district or interim regulation;
(iii) the general character of the proposed interim zoning district or interim regulation;
(iv) the time and place of the public hearing; and
(v) that the proposed interim zoning district or interim regulation is on file for public inspection at the office of the county clerk and recorder.

(b) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed establishment of an interim zoning district or interim regulation.

(c) After the hearing, the board of county commissioners may adopt a resolution to establish an interim zoning district or interim regulation."

Insert: "Section 12. Section 76-2-210, MCA, is amended to read:

"76-2-210. Enforcement of zoning provisions. (1) ~~In case~~ If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any resolution ~~made under authority conferred hereby, the proper authorities of adopted under this part,~~ the county, in addition to other remedies, may institute any appropriate action or proceedings to:

(a) prevent ~~such~~ the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; ~~to~~

(b) restrain, correct, or abate ~~such~~ a violation; ~~to~~

(c) prevent the occupancy of ~~such~~ the building, structure, or land; or ~~to~~

(d) prevent any illegal act, conduct, business, or use in or ~~about~~ ~~such~~ near the premises.

(2) The county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under 76-2-211.

(2)(3) The board of county commissioners may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions."

Renumber: subsequent sections

17. Page 8, line 30 through page 9, line 1.

Following: "subdivision," on page 8, line 30

Insert: "the"

Strike: "and" on page 8, line 30 through "lots" on page 9, line 1

18. Page 13, line 10.

Strike: "deny or conditionally"

Following: "approve"

Insert: ", conditionally approve, or deny"

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

19. Page 14.

Following: line 18

Insert: "Section 18. Section 76-3-510, MCA, is amended to read:

"76-3-510. Payment for extension of capital facilities. (1) A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

(2) All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required."

Renumber: subsequent sections

20. Page 18.

Following: line 18

Insert: "Section 23. Section 76-3-621, MCA, is amended to read:

"76-3-621. Park dedication requirement. (1) Except as provided in 76-3-509 or subsections (2), (3), and (6) through (9) of this section, a subdivider shall dedicate to the governing body a cash or land donation equal to:

- (a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
- (b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;
- (c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
- (d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

(2) When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under chapter 1 or pursuant to zoning regulations under chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the growth policy or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.

(3) A park dedication may not be required for:

- (a) land proposed for subdivision into parcels larger than 5 acres;
- (b) subdivision into parcels that are all nonresidential;
- (c) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; ~~or~~
- (d) a subdivision in which only one additional parcel is created; or
- (e) a first minor subdivision from a tract of record as described in 76-3-609(2).

(4) The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.

(5) (a) In accordance with the provisions of subsections (5)(b) and (5)(c), the governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

(b) The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easements only if:

- (i) the park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and
- (ii) the governing body has formally adopted a park plan that establishes the needs and procedures for use of the money.

(c) The governing body may not use more than 50% of the dedicated money for park maintenance.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

- (6) The local governing body shall waive the park dedication requirement if:
- (a) (i) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and
 - (ii) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (1);
 - (b) (i) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and
 - (ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1);
 - (c) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1); or
 - (d) (i) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and
 - (ii) the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (1).
- (7) The local governing body may waive the park dedication requirement if:
- (a) the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and
 - (b) the area of the land to be subject to long-term protection, as provided in subsection (7)(a), equals or exceeds the area of the dedication required under subsection (1).
- (8) A local governing body may, at its discretion, require a park dedication for a subsequent minor subdivision as described in 76-3-609(3). A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required.
- (9) Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (1) to a school district, adequate to be used for school facilities or buildings.
- (10) For the purposes of this section:
- (a) "cash donation" is the fair market value of the unsubdivided, unimproved land; and
 - (b) "dwelling unit" means a residential structure in which a person or persons reside.
- (11) A land donation under this section may be inside or outside of the subdivision."

Renumber: subsequent sections

21. Page 19.

Following: line 15

Insert: "NEW SECTION. Section 26. Codification instruction. [Section 6] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 6]."

Renumber: subsequent sections

22. Page 19.

Following: line 17

Insert: "NEW SECTION. Section 28. Applicability. [Sections 15, 22, and 24], concerning adoption of regulations and time references in the regulations, apply upon adoption of regulations under [section 15] or on May 1, 2010, whichever occurs first."

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

3/28/2009

SJR 30, do pass. Report adopted.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

HB 34, be amended as follows:

1. Page 7.

Following: line 5

Insert: "COORDINATION SECTION. Section 7. Coordination instruction. If [this act] and House Bill No. 363 are both passed and approved and if [section 1] of House Bill No. 363 establishes a new section dealing with the re-employment of certain retired teachers, specialists, and administrators, then [section 1 of this act] must read as follows:

"NEW SECTION. Section 1. Resumption of employment by retired member -- suspension of benefits.

(1) Except as provided in [section 1 of House Bill No. 363], if a retired member returns to full-time employment in a position covered by the retirement system and becomes an active contributing member, benefits must be suspended until the member terminates all employment and applies to have benefits reinstated.

(2) Except as provided in subsection (4), upon termination and retirement of a previously retired member who was reinstated to active membership pursuant to 19-20-731 before July 1, 2009:

(a) if the member earned less than 1 year of creditable service, the original benefit and retirement option the member was receiving at the time of suspension of benefits must be reinstated beginning either the first of the month following termination or on July 1 following the date on which the retired member was re-employed, whichever is later; or

(b) if the member earned 1 year or more of creditable service, retirement benefits must be recalculated under 19-20-804 if the member would qualify for a service retirement benefit under 19-20-801 or under 19-20-802 if the member is eligible for early retirement. The recalculated benefit must include the service credit accumulated at the time of the member's previous retirement, plus any service credit accumulated subsequent to reemployment. The recalculated benefit amount must be increased by the amount of any benefit enhancement received pursuant to 19-20-719 that the retired member was receiving when the member's benefits were suspended.

(3) (a) Except as provided in subsection (4), upon the subsequent retirement of a formerly retired member who was reinstated to active membership pursuant to 19-20-731 on or after July 1, 2009, and earned:

(i) at least 3 years of membership service following suspension of benefits, the member is entitled to resume receiving the suspended benefit in accordance with the retirement benefit option and beneficiary previously selected, plus an additional benefit based upon the new creditable service and compensation earned. The second benefit must be calculated as provided under 19-20-804 if the member is eligible for a service retirement benefit or under 19-20-802 if the member is eligible for early retirement. The second benefit must be paid under the same retirement allowance with the same beneficiary originally elected.

(ii) less than 3 years of membership service following suspension of benefits, the member is entitled to resume receiving the suspended benefit in accordance with the retirement benefit option previously selected, plus a refund of the employee contributions contributed after the member was reinstated to active service, plus interest.

(b) If a member dies during the period of reemployment following an initial retirement, the member must be considered as retiring on the day preceding the date of death and benefits must be determined according to the following:

(i) If the member elected the normal form benefit prior to reemployment, the member's designated beneficiary must receive an amount equal to the member's accumulated contributions on deposit.

(ii) If the member elected a retirement option pursuant to 19-20-702 prior to reemployment, the benefits due are payable in accordance with the terms of the original option elected and this subsection (3).

(4) If a retired member who has not attained normal retirement age is reemployed with the same employer within 30 days from the member's effective date of retirement or if that member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be canceled."

Insert: "COORDINATION SECTION. Section 8. Coordination instruction. If [this act] and House Bill No. 59 are both passed and approved and both contain a section that amends 19-20-731, then the section in House Bill No. 59 that amends 19-20-731 is void."

Insert: "COORDINATION SECTION. Section 9. Coordination instruction. If [this act] and House Bill No. 363

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

are both passed and approved and if both contain a section that amends 19-20-731, then the sections that amend 19-20-731 are void and 19-20-731 must be amended as follows:

"19-20-731. Postretirement employment limitations -- cancellation and recalculation of benefits. (1) (a) Except as provided in [section 1 of House Bill No. 363] or as otherwise provided in this section, a retired member may be employed part-time by a school district, state agency, or unit of the university system in a position eligible to participate in the retirement system and may earn, without an adjustment of retirement benefits, an amount not to exceed the greater of:

(i) one-third of the sum of the member's average final compensation; or
(ii) one-third of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board.

(b) For the purposes of this subsection (1), the maximum compensation that a retired member may earn under subsection (1)(a) without an adjustment of retirement benefits includes all remuneration paid to the retired member, excluding:

(i) the amount of health insurance premiums paid by the employer on the retired member's behalf;
(ii) the value of housing provided by the employer to the retired member;
(iii) the amount of employment-related travel expenses reimbursed to the retired member by the employer;
(iv) de minimis fringe benefits, as defined in 26 U.S.C. 132(e), paid by the employer to or on behalf of the retired member; and
(v) payroll taxes paid by the employer on behalf of the retired member.

(2) On July 1 of each year following the member's retirement effective date, the maximum that a retired member may earn under subsection (1)(a)(i) is increased by an amount equal to the consumer price index increase for urban wage earners compiled by the bureau of labor statistics of the United States department of labor or its successor agency in the preceding calendar year.

(3) Except as provided in ~~subsection (5)~~ [section 1 of House Bill No. 34] and [section 1 of House Bill No. 363], the retirement benefit of a retired member:

(a) employed in a part-time position or earning more than allowed by subsections (1) and (2) must be temporarily reduced by \$1 for each dollar earned over the maximum allowed. Monthly benefits must be reduced beginning as soon as practical after the excess earnings have been reported to the retirement system by the employer. The retirement benefit must be canceled if the retired member's earnings over the maximum allowed exceed the gross monthly benefit amount.

(b) employed in a full-time position must be canceled beginning in the month in which the retired member returns to full-time employment.

~~(4) Upon termination and retirement subsequent to a cancellation of benefits pursuant to subsection (3), the retirement benefit of a member:~~

~~— (a) who was reemployed and earned less than 1 year of creditable service must be reinstated beginning either the first of the month following termination or on July 1 following the date on which the retired member was reemployed, whichever is later. The reinstated retirement benefit is the amount and option that the retired member would have been entitled to receive had the retired member not returned to employment.~~

~~— (b) who was reemployed and earned at least 1 year of creditable service must be recalculated under 19-20-804 if the member has attained normal retirement age or under 19-20-802 if the member has not attained normal retirement age but is eligible for early retirement. The recalculated benefit must include the service credit accumulated at the time of the member's previous retirement, plus any service credit accumulated subsequent to reemployment. The recalculated normal form benefit amount must be increased by the amount of any benefit enhancement received pursuant to 19-20-719 that the retired member was receiving when the member's benefits were canceled.~~

~~— (5) If an early-retired member under 19-20-802 is reemployed with the same employer within 30 days from the member's effective date of retirement or if the early-retired member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be canceled.~~

~~(6)~~⁽⁴⁾ For purposes of this section, "position eligible to participate in the retirement system" includes work performed by a retiree through a professional employer arrangement, an employee leasing arrangement, or a

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

temporary service contractor, as those terms are defined in 39-8-102.

~~(7)~~(5) The retirement allowance of any retired member who is employed in a position and who elects to participate in the optional retirement program under Title 19, chapter 21, must be suspended until the member is no longer employed in the position and is no longer participating in the optional retirement program.""

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 59, be concurred in. Report adopted.

HB 315, be concurred in. Report adopted.

HB 602, be amended as follows:

1. Page 1, line 11.

Following: "state-owned vehicle"

Strike: ", " through ", "

2. Page 1, line 12 through line 13.

Strike: "if the" on line 12 through "residence" on line 13

3. Page 1, line 14.

Strike: "An" through "supervisor"

Insert: "The department director"

4. Page 1, line 14 through line 15.

Strike: "there" on line 14 through "SUCH AS" on line 15

Insert: "the commute from an employee's residence to the employee's worksite is less than 30 miles and if"

5. Page 1, line 16.

Strike: "WHEN AN"

Insert: "the"

6. Page 1, line 17.

Following: "DESCRIPTION"

Insert: "and employees in the position have frequently responded to emergency calls in the past"

7. Page 1, line 18.

Strike: "WHEN"

8. Page 1, line 19.

Strike: "WHEN AN"

Insert: "the"

Strike: "MUST"

Insert: "is required to"

Following: "WORKSITE"

Insert: "at least once a week"

9. Page 1, line 21.

Strike: "WHEN"

10. Page 1, line 23.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Following: "Any exception"

Insert: "authorized pursuant to subsection (2)(a)"

11. Page 1, line 24.

Strike: "supervisor"

Insert: "department director"

Following: "head."

Insert: "A copy of the letter or memorandum must be sent to the governor."

12. Page 1.

Following: line 24

Insert: "(c) This section does not apply to the psychiatrist employed by the department of corrections and assigned to the Montana state prison."

13. Page 1, line 25.

Strike: "This" through "to use"

Insert: "Using"

14. Page 1, line 27.

Strike: "if"

Insert: "is not permitted under any circumstance unless"

Following: "use is"

Strike: "not"

Following: "authorized"

Insert: "by the employee's department director as required in this section and"

Following: "pursuant to"

Strike: "agency policy or"

15. Page 2, line 6.

Following: "governor"

Strike: ", "

Insert: "or"

Following: "general"

Strike: ", or the highway patrol"

16. Page 2.

Following: line 6

Insert: "(3) This part does not apply to a motor vehicle used in the service of the highway patrol."

And, as amended, be concurred in. Report adopted.

HB 659, be concurred in. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 38 - Senator Curtiss moved **SB 38** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 30

Nays: Balyeat, Branae, Cooney, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 18

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

SB 511 - Senator M. Tropila moved **SB 511** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 46

Nays: McGee, Windy Boy.
Total 2

Absent or not voting: None.
Total 0

Excused: Erickson, Stewart-Peregoy.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 499 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

Total 30

Nays: Branae, Cooney, Erickson, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 20

Paired: Esp, Laible, Aye; Erickson, Stewart-Peregoy, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 509 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 30

Nays: Branae, Cooney, Erickson, Gillan, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 20

Paired: Esp, Laible, Aye; Erickson, Stewart-Peregoy, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 163 concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Ripley, Shockley, Steinbeisser, Zinke, Mr. President.

Total 21

Paired: Erickson, Stewart-Peregoy, Aye; Esp, Laible, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SIXTY-NINTH LEGISLATIVE DAY - MARCH 28, 2009

MOTIONS

Senator Shockley moved to change his vote on **SB 499** from yes to no. Without objection so ordered.

Senator Shockley moved that **HB 315** be referred to Taxation. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, March 30, 2009. Motion carried.

Senate adjourned at 2:13 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTIETH LEGISLATIVE DAY**

Helena, Montana
March 30, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

3/30/2009

Correctly printed: **SB 38, SB 489, SB 503, SB 511, SJR 30, SJR 34, SR 29, HB 19, HB 59, HB 71, HB 85, HB 95, HB 104, HB 147, HB 161, HB 177, HB 222, HB 301, HB 315, HB 328, HB 338, HB 343, HB 362, HB 378, HB 402, HB 403, HB 404, HB 409, HB 412, HB 483, HB 488, HB 509, HB 517, HB 542, HB 544, HB 546, HB 557, HB 563, HB 567, HB 588, HB 626, HB 659, HJR 1, HJR 4, HJR 14.**

Correctly engrossed: **SB 507, HB 420, HB 628, HB 630.**

Delivered to the Secretary of State at 9:47 a.m., March 30, 2009: **SR 10.**

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/28/2009

HB 279, introduced by Reinhart

HB 306, introduced by Morgan

HB 598, introduced by P. Noonan

HB 615, introduced by MacLaren

HB 653, introduced by Pomnichowski

HB 655, introduced by Belcourt

House joint resolution passed and transmitted to the Senate for concurrence:

3/28/2009

HJR 30, introduced by Himmelberger

Senate amendments to House bills concurred in:

3/28/2009

HB 133, introduced by Stoker

HB 150, introduced by D. Brown

HB 195, introduced by Hamilton

HB 197, introduced by Ebinger

HB 317, introduced by Furey

HB 354, introduced by Glaser

HB 365, introduced by Roberts

HB 397, introduced by Kottel

HB 407, introduced by MacDonald

HB 593, introduced by Villa

HB 622 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 622**:

Representative Dickenson, Vice Chair

3/28/2009

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Representative Sands
Representative MacLaren
Representative Himmelberger

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

3/30/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 3:00 p.m., Saturday, March 28, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Caitlin Caltabiano, Whitefish
	Shelby DeMars, Dillon
	Justin Schaaf, Glendive
	Clive Ogle, White Sulphur Springs
	Joshua Erger, Billings
	Alexandra "Alex" Bronk, Darby

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, March 30, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Reid Fleming, Fort Shaw
	Taylor Floreen, Butte
	Jennifer Lynch, Butte
	Reva Stewart, Garryowen
	Eric Sell, Harlowton
	Bralyn Joubert, Columbia Falls

Report Adopted.

MOTIONS

Senator Peterson moved that the Senate appoint a conference committee on **SB 73** and request that the House appoint a like committee. Motion carried. Senator Hawks (Chair), Senator Zinke, and Senator Hinkle appointed.

Senator Peterson moved that the Senate appoint a conference committee on **SB 108** and request that the House appoint a like committee. Motion carried. Senator McGee (Chair), Senator Zinke, and Senator Jent.

Senator Peterson moved that the Senate appoint a conference committee on **SB 622** and asked that the House appoint a like committee. Motion carried. Senator R. Brown (Chair), Senator Brenden, and Senator Windy Boy.

Senator Peterson moved the Senate recess until 1:30 p.m. for caucuses. Motion carried.

Senate in recess.

Senate reconvened at 1:32 p.m.

Roll Call. All members present. Quorum present.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 38 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Branae, Cooney, Hawks, Jent, Juneau, Laslovich, Schmidt, Wanzenried.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 370 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Cooney, Gallus, Hinkle, Squires, Wanzenried, Williams.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 489 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Black, Erickson, Juneau, Kaufmann, Stewart-Peregoy.

Total 5

Absent or not voting: None.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Total 0

Excused: None.

Total 0

SB 503 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.

Total 31

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 511 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 48

Nays: McGee, Windy Boy.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 19 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Gallus.

Total 1

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 71 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Esp, Essmann, Hinkle, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 85 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 42

Nays: Balyeat, Barkus, Curtiss, Hinkle, Laslovich, McGee, Tutvedt, Zinke.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 95 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Gallus.
Total 1

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 104 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Ripley, Steinbeisser.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 147 concurred in as follows:

Yeas: Barrett, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 34

Nays: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, Curtiss, Gallus, Gebhardt, Hinkle, Jackson, Keane, McGee, Murphy, Ripley, Tutvedt.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 177 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Gallus.
Total 1

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 161 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Balyeat, Hinkle.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 222 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 41

Nays: Balyeat, Gallus, Gebhardt, Hinkle, Jackson, Juneau, McGee, Shockley, Windy Boy.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 301 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Gallus, Steinbeisser.
Total 2

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 328 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 46

Nays: Curtiss, Gallus, McGee, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 338 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Keane, Laible, Laslovich, Lewis, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 39

Nays: Balyeat, Cooney, Erickson, Hinkle, Jackson, Kaufmann, Larsen, McGee, Moss, Shockley, Windy Boy.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 343 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: M. Tropila.
Total 1

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 362 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 378 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Shockley, Stewart-Peregoy.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 402 concurred in as follows:

Yeas: Barrett, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 35

Nays: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, Curtiss, Essmann, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Mr. President.
Total 15

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 403 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 404 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 409 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 412 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: Esp, Gallus, Windy Boy.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 483 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 30

Nays: Branae, Cooney, Erickson, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 488 concurred in as follows:

Yeas: Bales, Barkus, Black, Branae, T. Brown, Brueggeman, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke.
Total 34

Nays: Balyeat, Barrett, Brenden, R. Brown, Cooney, Curtiss, Esp, Gallus, Hinkle, Larsen, Murphy, Peterson,

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Ripley, Shockley, Wanzenried, Mr. President.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 509 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 48

Nays: Gallus, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 517 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 542 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 544 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Cooney, Kaufmann.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 546 concurred in as follows:

Yeas: Balyeat, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.

Total 37

Nays: Bales, Barkus, Brenden, R. Brown, Esp, Gebhardt, Hinkle, McGee, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 557 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann,

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 47

Nays: Barkus, Esp, Mr. President.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 563 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 46

Nays: Esp, Gebhardt, Jackson, Zinke.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 567 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 588 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 626 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 1 concurred in as follows:

Yeas: Balyeat, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 37

Nays: Bales, Barkus, Black, Brenden, Esp, Hinkle, Jackson, Jent, McGee, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

HJR 4 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Stewart-Peregoy, Wanzenried, Williams.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 14 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, M. Tropila, Tutvedt, Mr. President.
Total 28

Nays: Black, Branae, Cooney, Erickson, Esp, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 190 - Senator J. Peterson moved consideration of **HB 190** be placed as item 6 on the second reading agenda. Motion carried.

HB 531 - Senator J. Peterson moved consideration of **HB 531** be passed for the day. Motion carried.

SB 490 - Senator R. Brown moved **SB 490** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gallus,

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 32

Nays: Branae, Cooney, Erickson, Esp, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams, Windy Boy.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator McGee assumed the chair.

SB 508 - Senator Brueggeman moved **SB 508** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 41

Nays: Balyeat, R. Brown, Hinkle, Juneau, Kaufmann, Murphy, Shockley, Stewart-Peregoy, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Cooney excused at this time.

HB 375 - Senator Wanzenried moved **HB 375** be concurred in. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Curtiss, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Cooney.

Total 1

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

HB 375 - Senator J. Peterson moved **HB 375** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 28

Nays: Branae, Brueggeman, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 21

Absent or not voting: None.
Total 0

Excused: Cooney.
Total 1

HB 443 - Senator Shockley moved **HB 443** be concurred in. Motion carried as follows:

Yeas: Barkus, Black, Branae, Brueggeman, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 31

Nays: Bales, Balyeat, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Gebhardt, Jackson, Lewis, McGee, Murphy, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.
Total 18

Absent or not voting: None.
Total 0

Excused: Cooney.
Total 1

HB 190 - Senator Shockley moved **HB 190** be concurred in.

HB 190 - Senator Barkus moved **HB 190**, second reading copy, be amended as follows:

1. Page 3, line 29.

Strike: "or"

Insert: "(v) a wooden rail fence that provides for passage; or"

Renumber: subsequent subsections

2. Page 4, line 1.

Strike: "IT MAY" through "WATER."

Insert: "One access feature, as described in subsection (2)(a), on each side of the stream is sufficient."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp,

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.
Total 44

Nays: Erickson, Kaufmann, Laslovich, Wanzenried, Windy Boy.
Total 5

Absent or not voting: None.
Total 0

Excused: Cooney.
Total 1

HB 190 - Senator Shockley moved **HB 190**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Hinkle.
Total 2

Absent or not voting: None.
Total 0

Excused: Cooney.
Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Black moved to change his vote on **HB 402** from yes to no. Without objection, so ordered.

FIRST READING AND COMMITMENT OF BILLS

The following House bill was introduced, read first time, and referred to committee:

HB 279, introduced by Reinhart, Boland, A. Noonan, P. Noonan, Vincent, Fleming, Phillips, Malek, McAlpin, MacDonald, Ebinger, Sands, Calf Boss Ribs, French, Grinde, Dick Barrett, McClafferty, Hamilton, Becker, Menahan, Campbell, referred to Finance and Claims.

HB 306, introduced by Morgan, referred to Highways and Transportation.

HB 598, introduced by P. Noonan, Jopek, McClafferty, Sands, French, Hamilton, A. Noonan, Wilmer, Sesso, Dickenson, Phillips, Wiseman, Hiner, referred to Business, Labor, and Economic Affairs.

HB 615, introduced by MacLaren, referred to Business, Labor, and Economic Affairs.

HB 653, introduced by Pomnichowski, Erickson, referred to Taxation.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

HB 655, introduced by Belcourt, Hamlett, Zinke, Jopek, D. Brown, Kasten, Branae, Ripley, Steinbeisser, Getz, Roundstone, Mehlhoff, McClafferty, Ankney, Fleming, Vincent, Wagner, Boland, Cohenour, Bennett, Larsen, referred to Agriculture, Livestock and Irrigation.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 30, introduced by Himmelberger (by request of House State Administration Standing Committee), referred to Natural Resources.

SPECIAL ORDERS OF THE DAY

Senator R. Brown introduced the Pages for the week of March 30 - April 4, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

MOTIONS

Senator Perry moved to re-refer **HB 130** from Local Government to Judiciary.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, Curtiss, Gallus, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Laible, Larsen, McGee, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 33

Nays: R. Brown, T. Brown, Brueggeman, Erickson, Esp, Essmann, Gebhardt, Jackson, Laslovich, Lewis, Murphy, Ripley, Tutvedt, Mr. President.

Total 14

Absent or not voting: Gillan, Keane.

Total 2

Excused: Cooney.

Total 1

Senator Perry moved to re-refer **HB 131** to Finance and Claims to Judiciary. Motion carried.

Peterson moved the Senate recess until 5:15 p.m. Motion carried.

Senate in recess.

Senate reconvened at 5:15 p.m.

Roll Call. All members present, except Senator Jent, Senator Laslovich, and Senator Tutvedt. Quorum present.

Senator Tutvedt present at this time.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

3/30/2009

HB 3, be amended as follows:

1. Page 1, line 19.

Strike: "\$3,000,000"

Insert: "\$3,633,432"

2. Page 2, line 3.

Strike: "\$36,000 GENERAL FUND"

Following: line 3

Insert: "Legal Fees \$36,000 General Fund
 Legal Judgment \$225,000 General Fund"

And, as amended, be concurred in. Report adopted.

HB 4, be amended as follows:

1. Page 2, following line 16.

Insert: "Office of Consumer Protection

Solomon arbitration settlement FY 2009 \$6,000 State Special

All remaining fiscal year 2009 state special budget amendment authority for the solomon arbitration settlement is authorized to continue into federal fiscal year 2009."

2. Page 2, following line 19.

Insert: "Division of Criminal Investigations

Internet crimes against children task force FY 2009 \$8,000 Federal"

3. Page 2, following line 22.

Insert: "Motor Vehicle Division

Commercial driver's license information system modernization program FY 2009 \$479,546 Federal

All remaining fiscal year 2009 federal budget amendment authority for the commercial driver's license information system modernization program is authorized to continue into state fiscal year 2011.

Montana Arts Council

Promotion of the Arts

Montana current partnership agreement FY 2009 \$155,057 Federal

All remaining fiscal year 2009 federal budget amendment authority for the Montana current partnership agreement is authorized to continue into state fiscal year 2010."

4. Page 2, following line 28.

Insert: "Research Center

Museum and library services grant FY 2009 \$2,987 Federal

All remaining fiscal year 2009 federal budget amendment authority for the museum and library services grant is authorized to continue into state fiscal year 2010."

5. Page 3, following line 9.

Insert: "Westslope cutthroat trout restoration FY 2009 \$25,068 Federal"

6. Page 3, line 17.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Following: "FOR"

Insert: "the westslope cutthroat trout restoration grant,"

7. Page 3, line 18.

Following: "RENOVATION GRANT"

Insert: ", "

8. Page 5, following line 3.

Insert: "Environmental Quality Protection Fund

Burlington Northern Santa Fe Livingston cleanup site FY 2009 \$500,000 State Special

All remaining fiscal year 2009 federal budget amendment authority for the Libby/Troy asbestos project is authorized to continue into state fiscal year 2010."

9. Page 6, following line 1.

Insert: "Oil and Gas Conservation Division

Underground injection control class II grant FY 2009 \$41,880 Federal

All remaining fiscal year 2009 federal budget amendment authority for the underground injection control class II grant is authorized to continue into federal fiscal year 2009."

10. Page 6, line 3.

Following: "for"

Insert: "the Willow Creek dam breach analysis reports, the cooperative technical partners grant,"

11. Page 6, following line 8.

Insert: "Bureau of land management prescribed burning activities FY 2009 \$1,584 Federal

Hazardous fuel reduction work on adjacent nonfederal lands FY 2009 \$2,000,000 Federal"

12. Page 6, line 9.

Following: "for"

Insert: "bureau of land management prescribed burning activities, federal forest service"

13. Page 7, following line 10.

Strike: line 11 through line 13 in their entirety

Insert: "All remaining fiscal year 2009 federal budget amendment authority for postsecondary education programs to assist and encourage incarcerated individuals to acquire education and job skills and for related services is authorized to continue into federal fiscal year 2010."

14. Page 8, following line 3.

Insert: "Additional unemployment insurance administration and emergency unemployment compensation grant FY 2009 \$907,025 Federal"

15. Page 8, following line 5.

Insert: "All remaining fiscal year 2009 federal budget amendment authority for the additional unemployment insurance administration and emergency unemployment compensation grant is authorized to continue into federal fiscal year 2011."

16. Page 8, following line 10.

Insert: "2008 predisaster mitigation competitive grant FY 2009 \$335,637 Federal"

17. Page 8, following line 29.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Insert: "Quality Assurance Division

All remaining fiscal year 2009 federal budget amendment authority for the medicaid transform grant is authorized to continue into state fiscal year 2010.

Addictive and Mental Disorders Division

Submission of substance abuse client data for treatment admissions and discharges grant FY 2009 \$150,000
Federal

All remaining fiscal year 2009 federal budget amendment authority for the submission of substance abuse client data for treatment admissions and discharges grant is authorized to continue into state fiscal year 2010."

And, as amended, be concurred in. Report adopted.

HB 6, be amended as follows:

1. Page 8, line 14.

Strike: "\$2.2"

Insert: "\$2.1"

2. Page 9, line 20.

Following: line 19

Insert: "NEW SECTION. **Section 6. Coordination instruction.** If the total transfers for the renewable resource grants and loans water projects in section 51-F, item 5, of House Bill No. 645 is reduced below a total of \$4,148,796, then the appropriation of \$8,654,593 from the natural resources projects state special revenue account for grants to political subdivisions and local governments in [section 1 of this act] is reduced by a like amount."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 7, be amended as follows:

1. Page 3, line 30.

Following: "WITHDRAWN"

Insert: "and \$70,000 is granted to the Clark Fork River Basin Task Force for the water management plan project"

2. Page 4, line 28.

Following: line 27

Insert: "NEW SECTION. **Section 6. Coordination instruction.** If the total transfers for the reclamation and development grants and loans reclamation projects in section 51-F, item 6, of House Bill No. 645 is reduced below a total of \$1,794,266, then the appropriation of \$6,227,122 from the natural resources projects state special revenue account for reclamation and development grants in [section 1 of this act] is reduced by a like amount."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

3/30/2009

HB 228, be amended as follows:

1. Title, line 8.

Following: "SECTIONS"

Strike: "45-8-315, 45-8-316,"

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Insert: "45-3-103, 45-8-321, 45-8-328,"

2. Title, line 9.

Following: the first "MCA;"

Strike: "AND REPEALING SECTION 45-8-317, MCA"

Insert: "AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, line 10.

Following: line 9

Insert: "WHEREAS, the Legislature declares that:

(1) the right of Montanans to defend their lives and liberties, as provided in Article II, section 3, of the Montana Constitution, and their right to keep or bear arms in defense of their homes, persons, and property, as provided in Article II, section 12, of the Montana Constitution, are fundamental and may not be called into question;

(2) the use of firearms for self-defense is recognized within the right reserved to the individual people of Montana in Article II, section 12, of the Montana Constitution;

(3) self-defense is a natural right under section 1-2-104, MCA, and is included in sections 49-1-101 and 49-1-103, MCA;

(4) the lawful use of firearms for self-defense is not a crime or an offense against the people of the state;

(5) in a criminal case in which self-defense is asserted, the burden of proof is as provided in [section 10];

(6) in self-defense, the use of justifiable force discourages violent crime and prevents victimization; and

(7) the purpose of [sections 1 through 3] is to clarify and secure the ability of the people to protect themselves."

4. Page 1, line 13 through line 25.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 1, line 29.

Following: "prior to"

Strike: "acting in self-defense."

Insert: "using force. The provisions of this section apply to a person offering evidence of justifiable use of force under 45-3-102, 45-3-103, or 45-3-104."

6. Page 2, line 1 through line 16.

Strike: section 3 in its entirety

Insert: "NEW SECTION. Section 2. Openly carrying weapon -- display -- exemption. (1) Any person who is not otherwise prohibited from doing so by federal or state law may openly carry a weapon and may communicate to another person the fact that the person has a weapon.

(2) If a person reasonably believes that the person or another person is threatened with bodily harm, the person may warn or threaten the use of force, including deadly force, against the aggressor, including drawing or presenting a weapon.

(3) This section does not limit the authority of the board of regents or other postsecondary institutions to regulate the carrying of weapons, as defined in 45-8-361(5)(b), on their campuses."

Renumber: subsequent sections

7. Page 2, line 18.

Following: "involving"

Strike: "self-defense"

Following: "claim"

Insert: "of justifiable use of force"

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

8. Page 2, line 19.

Following: "appears to have"

Strike: "been"

9. Page 2, line 20.

Strike: "been in self-defense"

Insert: "involved justifiable use of force"

10. Page 2, lines 20 through 21.

Following: "testimony" on line 20

Strike: remainder of line 20 through "support" on line 21

Insert: "concerning"

11. Page 2, line 21.

Following: "and"

Insert: "that might support"

Following: "alleged"

Strike: "self-defense"

Insert: "justifiable use of force"

12. Page 2, line 22.

Insert: "Section 4. Section 45-3-103, MCA, is amended to read:

"45-3-103. Use of force in defense of occupied structure. (1) A person is justified in the use of force or threat to use force against another when and to the extent that ~~he~~ the person reasonably believes that ~~such conduct~~ the use of force is necessary to prevent or terminate ~~such~~ the other's unlawful entry into or attack upon an occupied structure. ~~However, he~~

(2) A person justified in the use of force pursuant to subsection (1) is justified in the use of force likely to cause death or serious bodily harm only if:

(1)(a) the entry is made or attempted ~~in violent, riotous, or tumultuous manner~~ and ~~he~~ the person reasonably believes that ~~such~~ the force is necessary to prevent an assault upon ~~or offer of personal violence to him~~ the person or another then in the occupied structure; or

(2)(b) ~~he~~ the person reasonably believes that ~~such~~ the force is necessary to prevent the commission of a forcible felony in the occupied structure.""

13. Page 4, line 23 through page 5, line 10.

Strike: sections 7 and 8 in their entirety

Renumber: subsequent sections

14. Page 5, line 12.

Following: line 11

Insert: "Section 7. Section 45-8-321, MCA, is amended to read:

"45-8-321. Permit to carry concealed weapon. (1) A county sheriff shall, within 60 days after the filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from the date of issuance. An applicant must be a United States citizen who is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued by the state that has a picture of the person identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the applicant:

(a) is ineligible under Montana or federal law to own, possess, or receive a firearm;

(b) has been charged and is awaiting judgment in any state or federal crime that is punishable by incarceration for 1 year or more;

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

- (c) subject to the provisions of subsection (6), has been convicted in any state or federal court of:
- (i) a crime punishable by more than 1 year of incarceration or; or
- (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime an act, attempted act, or threat of intentional homicide, ~~violence, bodily or~~ serious bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without consent;
- (d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years have elapsed since the date of the conviction;
- (e) has a warrant of any state or the federal government out for the applicant's arrest;
- (f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is otherwise under state supervision;
- (g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill, mentally defective, or mentally disabled and is still subject to a disposition order of that court; or
- (h) was dishonorably discharged from the United States armed forces.
- (2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has reasonable cause to believe that the applicant is mentally ill, mentally defective, or mentally disabled or otherwise may be a threat to the peace and good order of the community to the extent that the applicant should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written statement of the reasonable cause upon which the denial is based.
- (3) An applicant for a permit under this section must, as a condition to issuance of the permit, be required by the sheriff to demonstrate familiarity with a firearm by:
- (a) completion of a hunter education or safety course approved or conducted by the department of fish, wildlife, and parks or a similar agency of another state;
- (b) completion of a firearms safety or training course approved or conducted by the department of fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law enforcement agency, an institution of higher education, or an organization that uses instructors certified by a national firearms association;
- (c) completion of a law enforcement firearms safety or training course offered to or required of public or private law enforcement personnel and conducted or approved by a law enforcement agency;
- (d) possession of a license from another state to carry a firearm, concealed or otherwise, that is granted by that state upon completion of a course described in subsections (3)(a) through (3)(c); or
- (e) evidence that the applicant, during military service, was found to be qualified to operate firearms, including handguns.
- (4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other document that attests to completion of the course and can be verified through contact with the entity or instructor that conducted the course creates a presumption that the applicant has completed a course described in subsection (3).
- (5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstrating familiarity with a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff or of any person or entity to which the sheriff delegates authority to give the test, a physical test in which the applicant demonstrates the applicant's familiarity with a firearm.
- (6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a felony and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to issuance of a concealed weapons permit if otherwise eligible."

Insert: "Section 8. Section 45-8-328, MCA, is amended to read:

"45-8-328. Carrying concealed weapon in prohibited place -- penalty. (1) A person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in:

- (a) portions of a building used for state or local government offices and related areas in the building that have been restricted;
- (b) a bank, credit union, savings and loan institution, or similar institution during the institution's normal

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

business hours. It is not an offense under this section to carry a concealed weapon while:

- (i) using an institution's drive-up window, automatic teller machine, or unstaffed night depository; or
- (ii) at or near a branch office of an institution in a mall, grocery store, or other place unless the person is inside the enclosure used for the institution's financial services or is using the institution's financial services.
- (c) a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued under Title 16 for the sale of alcoholic beverages for consumption on the premises;
- (d) a health care facility as defined in 50-5-101.

(2) It is not a defense that the person had a valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed \$500, or both."

Renumber: subsequent sections

15. Page 5, line 16 through line 17.

Following: "person." on line 16

Strike: remainder of line 16 through "45-3-106." on line 17

16. Page 5, line 20.

Following: line 19

Insert: "NEW SECTION. Section 10. Justifiable use of force -- burden of proof. In a criminal trial, when the defendant has offered evidence of justifiable use of force, the state has the burden of proving beyond a reasonable doubt that the defendant's actions were not justified."

Renumber: subsequent sections

17. Page 5, line 21.

Strike: section 10 in its entirety

Renumber: subsequent sections

18. Page 5, line 23.

Strike: "4"

Insert: "3"

19. Page 5, line 25.

Strike: "4"

Insert: "3"

20. Page 5, line 30.

Strike: "1"

Insert: "24"

Strike: "4"

Insert: "1"

21. Page 6, line 1.

Strike: "1"

Insert: "24"

Strike: "4"

Insert: "1"

22. Page 6, line 4.

Following: line 3

Insert: "(4) [Section 10] is intended to be codified as an integral part of Title 46, chapter 16, part 1, and the

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

provisions of Title 46, chapter 16, part 1, apply to [section 10]."

23. Page 6, line 5.

Following: line 4

Insert: "NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

HB 534, be amended as follows:

1. Page 1, line 29.

Following: "FELONY"

Insert: "or, in the case of a youth, an offense that would be a felony if committed by an adult"

2. Page 3, line 11 through page 4, line 3.

Strike: section 4 in its entirety

Insert: "NEW SECTION. **Section 4. Exceptions to custodial recording requirements.** A judge shall admit statements or evidence of statements that do not conform to [section 3] if, at hearing, the state proves by a preponderance of the evidence that:

(1) the statements have been made voluntarily and are reliable; or

(2) one or more of the following circumstances existed at the time of the custodial interrogation:

(a) the questions put forth by law enforcement personnel and the person's responsive statements were part of the routine processing or booking of the person;

(b) before or during a custodial interrogation, the person unambiguously declared that the person would respond to the law enforcement officer's questions only if the person's statements were not electronically recorded;

(c) the failure to electronically record an interrogation in its entirety was the result of unforeseeable equipment failure and obtaining replacement equipment was not practicable;

(d) exigent circumstances prevented the making of an electronic recording of the custodial interrogation;

(e) the person's statements were surreptitiously recorded by or under the direction of law enforcement personnel;

(f) the person's statement was made during a custodial interrogation that was conducted in another state by peace officers of that state in compliance with the laws of that state; or

(g) the person's statement was made spontaneously and not in response to a question."

Renumber: subsequent sections

3. Page 4, line 5 through line 11.

Following: "INSTRUCTION."

Strike: "If" through "]" on line 11

Insert: "If the defendant objects to the introduction of evidence under [section 3] and the court finds by a preponderance of the evidence that the statements are admissible, the judge shall, upon motion of the defendant, provide the jury with a cautionary instruction."

And, as amended, be concurred in. Report adopted.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolutions were introduced, read first time, and referred to committees:

SR 30, introduced by Black, referred to Energy and Telecommunications.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

SR 31, introduced by Black, referred to Energy and Telecommunications.

SR 32, introduced by Brueggeman, referred to Highways and Transportation.

Senator Laslovich present at this time.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 584 - Senator Hawks moved **HB 584** be concurred in.

HB 584 - Senator Gebhardt moved **HB 584**, second reading copy, be amended as follows:

1. Title, page 1, line 8.

Strike: "LEGISLATURE"

Insert: "ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE"

2. Page 1, line 30.

Strike: "5"

Insert: "6"

3. Page 2, line 30 through page 3, line 1.

Strike: "62nd" on page 2, line 30 through "5-11-210" on page 3, line 1

Insert: "energy and telecommunications interim committee provided for in 5-5-230. The report must be provided to the committee before September 1, 2010."

4. Page 5.

Following: line 11

Insert: "NEW SECTION. **Section 6. Best management practices -- nonregulatory in nature.** Nothing in [sections 1 through 6] may be construed to:

(1) establish a wind siting permit process based on proposed best management practices;

(2) establish regulations based on proposed best management practices; or

(3) allow the department to regulate new wind generation facilities."

Renumber: subsequent sections

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

Senator Jent present at this time.

HB 584 - Senator Hawks moved **HB 584**, as amended, be concurred in. Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 584 - Senator J. Peterson moved **HB 584** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 628 - Senator Laslovich moved **HB 628** be concurred in.

HB 628 - Senator McGee moved **HB 628**, second reading copy, be amended as follows:

1. Title, line 8.
Strike: "SECTION"
Insert: "SECTIONS"

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Following: "45-1-205"

Insert: "AND 61-5-405"

2. Page 3, line 5.

Following: line 4

Insert: "Section 2. Section 61-5-405, MCA, is amended to read:

"61-5-405. Offenses furnishing ground for suspension or revocation of license -- return to licensing jurisdiction of abstracts of court records and reports of conviction. (1) Items enumerated in Article IV(1), subsections (a), (b), (c), and (d) of 61-5-401 refer specifically to 45-5-103, 45-5-104, 61-8-401, the definition of felony as provided in 45-2-101, and 61-7-103, respectively.

(2) In addition to convictions mentioned in subsection (1), the department, for the purpose of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported as it would if the conduct had occurred in this state for:

(a) convictions of perjury or the making of a false affidavit relating to the ownership or operation of a motor vehicle (61-5-303); ~~and~~

(b) three convictions of reckless driving committed within a period of 12 months (61-8-301); or

(c) convictions of careless driving resulting in death or reckless driving resulting in death.

(3) Court abstracts or reports of conviction received by the department that name an individual licensed in another jurisdiction must be forwarded to the jurisdiction of licensure. The department may not take action against the driver's license or driving privilege of the individual as may be required elsewhere in this title."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Juneau, Kaufmann, Murphy, Stewart-Peregoy.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 628 - Senator Laslovich moved **HB 628**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Stewart-Peregoy.

Total 1

Absent or not voting: None.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Total 0

Excused: None.

Total 0

HJR 33 - Senator Story moved **HJR 33** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Balyeat, R. Brown, Esp, Essmann, Hinkle, Shockley.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 98 - Senator Erickson moved **HB 98** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 44

Nays: Balyeat, Barkus, Esp, Hinkle, Jackson, Mr. President.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 116 - Senator Zinke moved **HB 116** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 46

Nays: Balyeat, Esp, Keane, Windy Boy.

Total 4

Absent or not voting: None.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Total 0

Excused: None.

Total 0

HB 263 - Senator Essmann moved **HB 263** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 264 - Senator Essmann moved **HB 264** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 357 - Senator Jackson moved **HB 357** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 451 - Senator Jackson moved **HB 451** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Hinkle, Ripley, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 495 - Senator Essmann moved **HB 495** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Esp, Gebhardt, Hinkle, McGee.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 513 - Senator Zinke moved **HB 513** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 529 - Senator Black moved **HB 529** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 31

Nays: Cooney, Erickson, Gallus, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 572 - Senator Gillan moved **HB 572** be concurred in. Motion carried as follows:

Yeas: Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Shockley, Tutvedt, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Gebhardt, Chairman):
HB 40, be amended as follows:

3/30/2009

SENATE JOURNAL
SEVENTIETH LEGISLATIVE DAY - MARCH 30, 2009

1. Title, page 1, line 11.

Strike: the first "AND"

2. Title, page 1, line 12.

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE"

3. Page 11.

Following: line 29

Insert: "NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 2009."

Insert: "NEW SECTION. **Section 9. Applicability.** [This act] applies to applications received by the department after [the effective date of this act]."

And, as amended, be concurred in. Report adopted.

HB 52, be concurred in. Report adopted.

MOTIONS

Senator Gallus moved to change his vote on HB 362 from no to yes. Without objection, so ordered.

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, March 31, 2009. Motion carried.

Senate adjourned at 6:18 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-FIRST LEGISLATIVE DAY**

Helena, Montana
March 31, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brueggeman, Laslovich, and Windy Boy, excused. Quorum present.

Senator Windy Boy present at this time.

BILLS AND JOURNALS:

3/31/2009

Correctly printed: **SB 490, SB 508, SR 30, SR 31, SR 32, HB 52, HB 98, HB 116, HB 263, HB 264, HB 357, HB 443, HB 451, HB 495, HB 513, HB 529, HB 572, HJR 33.**

Correctly engrossed: **HB 3, HB 4, HB 6, HB 7, HB 34, HB 40, HB 190, HB 218, HB 228, HB 486, HB 534, HB 591, HB 602, HB 628.**

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman):

3/31/2009

SR 24, be adopted. Report adopted.

HB 533, be concurred in. Report adopted.

HB 536, be amended as follows:

1. Page 1, line 19.

Following: "shall"

Insert: "restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period or"

2. Page 1, line 19 through line 20.

Following: "that" on line 19

Strike: remainder of line 19 through "(a)" on line 20

3. Page 1, line 21.

Following: "61-8-421"

Strike: "; or"

Insert: "."

4. Page 1, line 22 through line 26.

Strike: subsection (b) in its entirety

And, as amended, be concurred in. Report adopted.

HB 574, be amended as follows:

1. Page 1, line 13.

Following: "~~knowingly or purposely~~"

Insert: "knowingly or purposely"

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

2. Page 1, line 13 through line 14.

Following: "offense" on line 13

Strike: remainder of line 13 through "OFFENSE," on line 14

3. Page 1, line 18.

Following: "knowingly or purposely"

Insert: "knowingly or purposely"

4. Page 1, line 18 through line 19.

Following: "offense" on line 18

Strike: remainder of line 18 through "OFFENSE," on line 19

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Esp, Chairman):

3/31/2009

HB 449, be amended as follows:

1. Title, lines 9 through 11.

Strike: "PROVIDING" on line 9 through "DISTRICT;" on line 11

2. Title, lines 17 and 18.

Strike: "REQUIRING" on line 17 through "SERVICES;" on line 18

3. Page 5, line 20 through page 6, line 12.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

4. Page 6, line 17.

Strike: "(4)"

Insert: "(3)"

5. Page 6, line 20.

Strike: "(5)"

Insert: "(4)"

6. Page 12, line 3 through line 10.

Strike: sections 12 and 13 in their entirety

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 608, be amended as follows:

1. Title, lines 4 and 5.

Following: "LIEN" on line 4

Strike: remainder of line 4 through "PROCEEDS" on line 5

Strike: "SECTION 33-24-104,"

Insert: "SECTIONS 27-18-101, 27-18-202, 27-18-203, 27-18-204, AND 27-18-1502,"

2. Title, line 6.

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Strike: "AND AN APPLICABILITY DATE"

3. Page 1, line 10 through line 25.

Strike: everything after the enacting clause

Insert: "Section 1. Section 27-18-101, MCA, is amended to read:

"27-18-101. Cases in which property may be attached. (1) Property may be attached in:

- (a) an action upon a contract, express or implied, for the direct payment of money where the contract:
 - (i) is not secured by any mortgage or lien upon real property; or
 - (ii) is originally secured and such security has, without any act of the plaintiff or the person to whom the security was given, become valueless; ~~and~~
- (b) an action based upon a statutory stockholders' liability; and
- (c) an action by a local government for the purpose of ensuring debris removal if it is determined that the underlying property is worth less than the cost of debris removal.

(2) Attachment may not issue if the defendant gives security to pay the judgment.

(3) For the purpose of this section, the guaranty of a loan in which the only condition precedent to the obligation of the guarantor is the default of the principal is an unconditional contract for the direct payment of money."

Insert: "Section 2. Section 27-18-202, MCA, is amended to read:

"27-18-202. Plaintiff's affidavit. When attachment of a defendant's property is sought, an affidavit must be made by the plaintiff or someone ~~in his~~ on the plaintiff's behalf stating:

- (1) facts which show the defendant is indebted to the plaintiff in the manner specified in 27-18-101(1);
- (2) that the attachment is not sought to hinder, delay, or defraud any creditor of the defendant;
- (3) facts creating a reasonable belief that the defendant:
 - (a) is leaving or about to leave this state taking ~~with him~~ property, money, or other effects which might be subjected to payment of the debt;
 - (b) is disposing or about to dispose of ~~his~~ property which would be subject to execution;
 - (c) has the power to dispose of or conceal or remove from the state property ~~which that~~ would be subject to execution; or
 - (d) is likely to suffer liens or encumbrances on ~~his~~ the defendant's property ~~which that~~ would be subject to execution;
- (4) a particular description and the actual value of the property to be attached;
- (5) facts creating a reasonable basis for a local government belief that the underlying property is worth less than the cost of debris removal."

Insert: "Section 3. Section 27-18-203, MCA, is amended to read:

"27-18-203. Affidavit requirements when debt not yet due. Actions may be commenced and writs of attachment issued upon any debt for the payment of money or specific property before the ~~same shall have debt has~~ become due, or upon a local government debris removal issue, when it ~~shall appear~~ appears by the affidavit, in addition to what is required in 27-18-202:

- (1) that the defendant is leaving or is about to leave this state, taking ~~with him~~ property, ~~moneys~~ money, or other effects ~~which that~~ might be subjected to the payment of the debt, for the purpose of defrauding ~~his~~ the defendant's creditors or a local government; or
- (2) that the defendant is disposing of ~~his~~ property or is about to dispose of ~~his~~ property, subject to execution, for the purpose of defrauding ~~his~~ the defendant's creditors or a local government."

Insert: "Section 4. Section 27-18-204, MCA, is amended to read:

"27-18-204. Plaintiff's undertaking. Before issuing the writ, the court must require a written undertaking on the part of the plaintiff, except a local government, with two or more sufficient sureties to be approved by the court, in a sum not less than double the amount claimed by the plaintiff if such the amount be is \$1,000 or under or, in case the amount ~~so~~ claimed by plaintiff ~~shall exceed~~ exceeds \$1,000, then in a sum equal to such that amount. ~~In no case shall an~~ An undertaking may not be required exceeding ~~in amount~~ the sum of \$20,000. The condition of such the undertaking ~~shall must~~ be to the effect that if the defendant recovers judgment or if the court finally decides that the plaintiff was not entitled to an attachment, the plaintiff will pay all costs that may be awarded to the defendant and

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

all damages ~~be~~ the defendant may sustain by reason of the issuing of the attachment, not exceeding the sum specified in the undertaking.""

Insert: "**Section 5.** Section 27-18-1502, MCA, is amended to read:

"27-18-1502. Plaintiff's undertaking. Before issuing the writ, the justice must require a written undertaking in due form on the part of the plaintiff, except a local government, with two or more sureties, in a sum of not less than \$50 or more than \$300, to the effect that if defendant recover judgment, the plaintiff will pay all costs that may be awarded to defendant and all damages ~~which he~~ that the defendant may sustain by reason of the attachment, not exceeding the sum specified in the undertaking.""

Insert: "NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

3/31/2009

SJR 31, do pass. Report adopted.

SJR 32, introduced joint resolution, be amended as follows:

1. Page 1, line 23.

Following: "hydrocodone, "

Insert: "methadone patches,"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

3/30/2009

SR 26, be adopted. Report adopted.

SR 27, be adopted. Report adopted.

SR 28, be adopted. Preliminary report adopted.

HB 109, be concurred in. Report adopted.

HB 110, be amended as follows:

1. Page 1, line 24.

Following: "IN"

Strike: "OTHER MUNICIPALITIES"

Insert: "Helena and in other areas"

2. Page 1, line 26.

Following: "IN"

Strike: "OTHER MUNICIPALITIES"

Insert: "Helena and in other areas"

And, as amended, be concurred in. Report adopted.

HJR 9, be amended as follows:

1. Page 2, line 11.

Following: "Delegation"

Insert: ", "

Strike: "and to"

Insert: "the respective Secretaries of the United States Army, Navy, and Air Force, the Commandant of the United States Coast Guard, and the Adjutant General of the Montana National Guard.

BE IT FURTHER RESOLVED, that the Secretary of State include with the copies sent to the

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

respective Secretaries of the Army, Navy, and Air Force, the Commandant of the United States Coast Guard, and the Adjutant General of the Montana National Guard a request that the respective Secretaries, the Commandant, and the Adjutant General use every means available to provide a copy of this resolution to each member of the Armed Forces who hails from Montana.

BE IT FURTHER RESOLVED, that the purpose and intent of this resolution is to convey to"

Strike: "informing them"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

March 30, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 32, "**AN ACT REVISING THE LAWS RELATING TO SCHOOLS; REVISING THE LAWS PERTAINING TO THE LOCATION OF SCHOOL BOARD MEETINGS; EXPANDING THE DISCIPLINARY POWERS OF SCHOOL ADMINISTRATORS; CLARIFYING THE LAWS GOVERNING STUDENT SUSPENSIONS; AND AMENDING SECTIONS OF 20-3-322, 20-5-201, AND 20-5-202, MCA**" for the following reasons.

My proposed amendment to House Bill 332 pertains to the location of a school board meeting that is held to address a violation of the student code of conduct within a week of graduation. The bill's intent was to exempt the trustees of a district from the statutory 48-hour written notice requirement when holding such a meeting within a week of graduation. My amendment does not effect this aspect of the bill. However, as written, the bill would also exempt the trustees from the requirement that the meeting be conducted in a school building. It is my belief that it is of utmost importance to hold a meeting concerning a violation of the student code of conduct within a week of graduation in a school building.

I have discussed my proposed amendment with the bill's sponsor, Representative Getz, who has no objection.

Sincerely,

BRIAN SCHWEITZER
Governor

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 32

Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:51am)

1. Title, line 5.

Following: "LOCATION OF"

Insert: "AND NOTICE REQUIREMENTS FOR CERTAIN"

2. Page 1, line 30.

Following: "emergency"

Insert: "or to consider a violation of the student code of conduct, as defined in accordance with district policy, within a week of graduation"

3. Page 2, lines 8 and 9.

Following: "district" on line 8

Strike: remainder of line 8 through "GRADUATION" on line 9

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/30/2009

HB 312, introduced by B. Beck

HB 361, introduced by Wiseman

HB 657, introduced by Stahl

HB 670, introduced by Vincent

Senate amendments to House bills concurred in:

3/30/2009

HB 221, introduced by Cohenour

HB 290, introduced by Grinde

HB 291, introduced by Sonju

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

3/30/2009

SB 57, introduced by Gillan

SB 58, introduced by Gillan

SB 95, introduced by Brueggeman

SB 113, introduced by Keane

SB 123, introduced by Squires

SB 133, introduced by Kaufmann

SB 148, introduced by J. Peterson

Free Conference Committee Report No.1 adopted:

3/30/2009

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

HB 23, introduced by Himmelberger

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

3/30/2009

HB 171, introduced by Augare

MOTIONS

Senator Laslovich present at this time.

Senator Brueggeman present at this time.

Senator Hinkle moved that **HB 592** be taken from the Agriculture, Livestock, and Irrigation committee and placed on second reading this day.

Motion **failed** as follows:

Yeas: Balyeat, Barkus, R. Brown, Hinkle.

Total 4

Nays: Bales, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Juneau moved that **HB 102** be taken from the Judiciary committee and placed on second reading this day.

Motion **failed** as follows:

Yeas: Branae, T. Brown, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Senator Bales moved that **HB 154** be re-referred from Fish and Game to Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 312, introduced by B. Beck, Erickson, Hollenbaugh, Wanzenried, Zinke, referred to Taxation.

HB 361, introduced by Wiseman, Hands, Brueggeman, Zinke, referred to Taxation.

HB 657, introduced by Stahl, referred to Taxation.

HB 670, introduced by Vincent, referred to Taxation.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 490 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 33

Nays: Branae, Cooney, Erickson, Esp, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, Wanzenried, Williams.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 507 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Cooney, Gallus, Juneau, Kaufmann, Moss, Schmidt, Stewart-Peregoy, Wanzenried, Williams.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 508 passed as follows:

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 42

Nays: Balyeat, R. Brown, Hinkle, Juneau, Kaufmann, Murphy, Stewart-Peregoy, Windy Boy.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 98 concurred in as follows:

Yeas: Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Bales, Balyeat, Barkus, Brenden, Esp, Essmann, Hinkle, Jackson, McGee.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 116 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 47

Nays: Balyeat, Hinkle, Windy Boy.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 218 concurred in as follows:

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 33

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, McGee, Ripley, Shockley, Steinbeisser, Windy Boy.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 263 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Kaufmann.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 264 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Kaufmann.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

HB 357 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Laible.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 443 concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 451 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 40

Nays: Balyeat, Barkus, Essmann, Gallus, Gebhardt, Hinkle, Laible, McGee, Shockley, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

HB 495 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Barkus, Esp, Gallus, Gebhardt, Hinkle, Laible, McGee.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 513 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 42

Nays: Balyeat, Barkus, Esp, Gallus, Hinkle, Jackson, McGee, Mr. President.
Total 8

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 529 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Tutvedt, Windy Boy, Mr. President.
Total 33

Nays: Branae, Cooney, Erickson, Gallus, Hansen, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

HB 572 concurred in as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Shockley, Tutvedt, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 591 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Barkus, Brenden, Esp, McGee, Ripley, Steinbeisser.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 33 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Balyeat, Barkus, R. Brown, Esp, Essmann, Hinkle, McGee, Ripley, Shockley.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

MOTIONS

Senator Hawks moved to change his vote on **SB 490** from yes to no. Without objection, so ordered.

Senator Esp moved to change his vote on **SB 490** from yes to no. Without objection, so ordered.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator J. Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 531 - Senator Windy Boy moved **HB 531** be concurred in.

HB 531 - Senator Brueggeman moved **HB 531**, second reading copy, be amended as follows:

1. Title, line 5.

Strike: "AND"

2. Title, line 6.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 2, line 9.

Insert: "NEW SECTION. **Section 3. Saving clause.** [This act] does not affect any contracts that were entered into before or are renewed after [the effective date of this act] or the ability to issue citations pursuant to those contracts. [This act] does not affect any rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Insert: "NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval."

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Mr. President.

Total 38

Nays: Balyeat, T. Brown, Curtiss, Esp, Essmann, Hinkle, McGee, Murphy, Shockley, Tutvedt, Windy Boy, Zinke.
Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 531 - Senator Brueggeman moved **HB 531**, second reading copy, be amended as follows:

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

1. Page 2, line 7.

Following: "SUBSECTION"

Strike: "(2)(B)"

Insert: "(2)(a)"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 531 - Senator Windy Boy moved **HB 531**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Black, Branae, Cooney, Erickson, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Laible, Moss, Schmidt.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 34 - Senator Jent moved **HB 34** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 59 - Senator Cooney moved **HB 59** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 103 - Senator Laible moved **HB 103** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 170 - Senator Jent moved **HB 170** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 371 - Senator Laible moved **HB 371** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 47

Nays: Esp, Ripley, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 420 - Senator Erickson moved **HB 420** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, Lewis, McGee, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 466 - Senator Tutvedt moved **HB 466** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke,

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Mr. President.
Total 49

Nays: Hinkle.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 477 - Senator Larsen moved **HB 477** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 486 - Senator Esp moved **HB 486** be concurred in.

HB 486 - Senator Esp moved **HB 486**, second reading copy, be amended as follows:

1. Page 9, line 1.
Strike: "density."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Erickson, Hawks.
Total 2

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Excused: None.
Total 0

HB 486 - Senator Esp moved **HB 486**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Brenden, Curtiss.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 504 - Senator Moss moved **HB 504** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: R. Brown, Curtiss, Hinkle, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 602 - Senator Shockley moved **HB 602** be concurred in.

HB 602 - Senator Shockley moved **HB 602**, second reading copy, be amended as follows:

1. Page 1, line 16.

Following: "MILES"

Insert: ", "

2. Page 1, line 16 through line 17.

Strike: "AND" on line 16 through "(I)" on line 17

3. Page 1, line 19.

Following: "DESCRIPTION"

Insert: ", "

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Following: "PAST"

Strike: "1"

Insert: "6 months."

4. Page 1, line 20 through line 24.

Strike: subsection (II) through subsection (IV) in their entirety

5. Page 1, line 28.

Following: "APPLY"

Insert: ": (i)"

6. Page 1, line 29.

Following: "PRISON"

Insert: ";

(ii) when the vehicle is, in effect, the employee's worksite; or

(iii) when 24-hour use of a state-owned vehicle is specifically authorized by law for an elected or appointed state official and use of the vehicle is considered part of the official's compensation package"

7. Page 2, line 3.

Strike: "AS" through "AND"

8. Page 2, line 4.

Following: "2-17-424"

Insert: ", the rationale for the exception is documented in a memorandum or letter signed by the employee's department director and kept on file with the agency head, and a copy of the letter or memorandum is sent to the governor"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 602 - Senator Shockley moved **HB 602**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Total 45

Nays: Esp, Gallus, Gillan, Jent, J. Tropila.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator J. Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 40 - Senator J. Peterson moved consideration of **HB 40** be placed at the bottom of the second reading board. Motion carried.

HB 228 - Senator McGee moved **HB 228** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 40

Nays: Erickson, Hansen, Juneau, Kaufmann, Moss, Schmidt, Stewart-Peregoy, J. Tropila, Williams, Windy Boy.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 534 - Senator J. Peterson moved consideration of **HB 534** and **HB 40** be passed for the day. Motion carried.

SENATE JOURNAL
SEVENTY-FIRST LEGISLATIVE DAY - MARCH 31, 2009

Senator Peterson moved the committee rise and rep`ort. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Peterson moved that the Senate appoint a Free Conference Committee on **SB 48** and ask that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Essmann, Chair, Senator Gillan, and Senator Tutvedt.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Wednesday, April 1, 2009. Motion carried.

Senate adjourned at 3:10 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-SECOND LEGISLATIVE DAY**

Helena, Montana
April 1, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Barkus and Gillan, excused. Quorum present.

Senator Barkus present at this time.

Senator Gillan present at this time.

BILLS AND JOURNALS:

4/1/2009

Correctly printed: **SJR 31, SR 24, SR 26, SR 27, HB 34, HB 59, HB 103, HB 109, HB 170, HB 228, HB 371, HB 420, HB 466, HB 477, HB 504, HB 533.**

Correctly engrossed: **SJR 32, HB 110, HB 449, HB 486, HB 531, HB 536, HB 574, HB 602, HB 608, HJR 9.**

REPORTS OF STANDING COMMITTEES

FISH AND GAME (Barkus, Chairman):

3/31/2009

SR 15, be adopted. Report adopted.

SR 16, be adopted. Report adopted.

SR 17, be adopted. Report adopted.

HB 480, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

April 1, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 322, "**AN ACT REQUIRING A PERSON NOMINATED OR APPOINTED AS A NEUTRAL ARBITRATOR TO DISCLOSE A CONFLICT OF INTEREST; PROVIDING FOR VACATING AN AWARD BECAUSE OF A FAILURE TO DISCLOSE A CONFLICT OF INTEREST; AND AMENDING SECTIONS 27-5-211 AND 27-5-312, MCA**" for the following reasons.

I have proposed these amendments at the request of the bill's sponsor, Representative Blewett. House Bill 322

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

establishes disclosure requirements for arbitrators. My amendments cover three technical areas. First, they clarify that it is the arbitrator that must comply with the requirements, not the arbitration agreement. Second, they correct what appears to have been an error in an amendment that was placed on the bill in the legislative process, so as to indicate that the disclosure requirements of subsection (4)(d) of section 1 of the bill apply to "neutral" arbitrators, not to "party" arbitrators, whose disclosure requirements are contained in subsection (4)(c) of section 1. Finally, it was always the intent of the bill that its disclosure requirements apply to arbitrators who have been proposed. The sponsor recently learned, however, of a court decision distinguishing "proposed" arbitrators from "nominated" arbitrators. Therefore, my amendments indicate that the disclosure requirements apply not only to "nominated and appointed" arbitrators, but to "proposed" arbitrators," as well.

Sincerely,

BRIAN SCHWEITZER
Governor

**GOVERNOR'S AMENDMENTS
TO HOUSE BILL 322**

**Amendments to House Bill No. 322
Reference Copy**

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:51am)

1. Title, line 4.

Following: "PERSON"

Insert: "PROPOSED,"

Following: "NOMINATED"

Insert: ", "

2. Page 1, lines 13 and 14.

Following: "(2)" on line 13

Strike: "An"

Insert: "Beginning October 1, 2009, a person who has been proposed, nominated, or appointed as a neutral arbitrator pursuant to an"

Following: "bargaining agreement" on line 13

Strike: remainder of line 13 through "2009," on line 14

3. Page 1, line 15.

Following: "been"

Insert: "proposed,"

Following: "nominated"

Insert: ", "

4. Page 1, line 18.

Following: "person"

Insert: "proposed,"

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Following: "nominated"

Insert: ", "

5. Page 2, line 12.

Strike: "A PARTY ARBITRATOR AND NOT"

6. Page 2, line 13.

Following: "ARBITRATOR"

Strike: remainder of line 13 in its entirety

7. Page 3, line 3.

Following: "person"

Insert: "proposed,"

Following: "nominated"

Insert: ", "

8. Page 3, line 5.

Following: line 4

Insert: "proposal,"

Following: "nomination"

Insert: ", "

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

3/31/2009

HB 187, introduced by Taylor

HB 575, introduced by McChesney

HB 631, introduced by Blewett

HB 656, introduced by Stahl

HB 658, introduced by Jopek

HB 662, introduced by Arntzen

HB 669, introduced by Vincent

HB 678, introduced by Pomnichowski

HB 674, introduced by Vincent, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote:

3/31/2009

Yeas - 98

Nays - 2

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

3/31/2009

SB 8, introduced by Hansen

SB 104, introduced by Esp

SB 158, introduced by Barkus

SB 164, introduced by Debby Barrett

SB 174, introduced by Perry

SB 202, introduced by Hinkle

SB 247, introduced by Black

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

SB 299, introduced by J. Tropila
SB 310, introduced by Shockley
SB 348, introduced by Essmann
SB 351, introduced by Essmann
SB 371, introduced by Perry
SB 399, introduced by Laslovich
SB 403, introduced by Gebhardt
SB 404, introduced by Brueggeman
SB 449, introduced by Keane

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments:

3/31/2009

SJR 15, introduced by Tutvedt

Senate bills not concurred in by the Committee of the Whole and returned to the Senate:

3/31/2009

SB 229, introduced by Perry
SB 246, introduced by Perry

MOTIONS

Senator Peterson moved the appointment of a free conference committee on **HB 622** and asked the House to appoint a like committee.

Senator Peterson withdrew his motion.

Senator Essmann moved to re-refer **HB 361** from Taxation to Local Government. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolutions were introduced, read first time, and referred to committee:

SJR 35, introduced by Schmidt, MacLaren, referred to Public Health, Welfare and Safety.
SJR 36, introduced by Gebhardt, Keane, referred to Natural Resources.

The following House bills were introduced, read first time, and referred to committees:

HB 187, introduced by Taylor, Jackson, Blasdel, referred to Highways and Transportation.
HB 575, introduced by McChesney, Ankney, Augare, Kerns, MacLaren, McNutt, Sesso, Steenson, Bales, Keane, referred to Natural Resources.
HB 631, introduced by Blewett, referred to Taxation.
HB 656, introduced by Stahl, referred to Business, Labor, and Economic Affairs.
HB 658, introduced by Jopek, Gebhardt, Pomnichowski, Essmann, Gillan, referred to Taxation.
HB 662, introduced by Arntzen, referred to Public Health, Welfare and Safety.
HB 669, introduced by Vincent, Cohenour, Nooney, Pomnichowski, Van Dyk, Reinhart, Hands, Blewett, Milburn, Menahan, Hendrick, Dickenson, Belcourt, Mehlhoff, Bennett, McGillvray, Warburton, referred to Natural Resources.
HB 674, introduced by Vincent, Cohenour, Pomnichowski, Hendrick, Miller, Mendenhall, Belcourt, Nooney, Blewett, Mehlhoff, Bennett, Menahan, Reinhart, Van Dyk, Hands, Hoven, referred to Natural Resources.

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Balyeat in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 40 - Senator Perry moved **HB 40** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 536 - Senator Laslovich moved **HB 536** be concurred in.

HB 536 - Senator Laslovich moved **HB 536**, second reading copy, be amended as follows:

1. Title, line 5 through line 6.

Following: line 4

Strike: line 5 through "RESTRICTION;" on line 6

2. Page 2, line 12.

Following: "shall"

Insert: "restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period or"

3. Page 2, line 12 through line 13.

Following: "that" on line 12

Strike: remainder of line 12 through "(a)" on line 13

4. Page 2, line 14.

Following: "61-8-421"

Strike: "or"

Insert: "."

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

5. Page 2, line 15 through line 18.

Strike: subsection (b) in its entirety

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Juneau.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 536 - Senator Laslovich moved **HB 536**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Barkus, Brenden, Gebhardt, Juneau, Murphy, Peterson, Tutvedt.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 534 - Senator Shockley moved **HB 534** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Barkus, Brenden, R. Brown.

Total 4

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Excused: None.
Total 0

HB 109 - Senator Jent moved **HB 109** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 37

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Hinkle, Jackson, McGee, Ripley, Steinbeisser, Zinke.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 533 - Senator Jent moved **HB 533** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Tutvedt, Wanzenried, Williams, Mr. President.
Total 40

Nays: Erickson, Juneau, Kaufmann, Murphy, Ripley, Stewart-Peregoy, J. Tropila, M. Tropila, Windy Boy, Zinke.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 574 - Senator Jent moved **HB 574** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Juneau, Kaufmann, Murphy.
Total 3

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 608 - Senator Laslovich moved **HB 608** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 46

Nays: Balyeat, Curtiss, Hinkle, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 9 - Senator Zinke moved **HJR 9** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 107 - Senator Schmidt moved **HB 107** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 112 - Senator Zinke moved **HB 112** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, R. Brown, Hinkle, Tutvedt.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 123 - Senator J. Peterson moved consideration of **HB 123** be passed for the day. Motion carried.

HB 127 - Senator Cooney moved **HB 127** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Barkus, R. Brown, Curtiss, Essmann, Hinkle, McGee, Tutvedt.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Steinbeisser excused at this time.

HB 211 - Senator Keane moved **HB 211** be concurred in. Motion failed as follows:

Yeas: Bales, Balyeat, Barrett, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gillan, Laslovich, Lewis, Perry, Ripley, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Mr. President.

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Total 21

Nays: Barkus, Black, Branae, Brenden, R. Brown, Erickson, Esp, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, McGee, Moss, Murphy, Peterson, Squires, Tutvedt, Windy Boy, Zinke.

Total 28

Absent or not voting: None.

Total 0

Excused: Steinbeisser.

Total 1

Senator Steinbeisser present at this time.

HB 211 - Senator Keane moved **HB 211** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Barkus, Branae, Brenden, R. Brown, Brueggeman, Curtiss, Erickson, Gallus, Hamlett, Hansen, Hinkle, Jackson, Jent, Juneau, Keane, Larsen, Lewis, Murphy, Perry, Peterson, Squires, Steinbeisser, Wanzenried, Williams, Windy Boy, Zinke.

Total 27

Nays: Balyeat, Barrett, Black, T. Brown, Cooney, Esp, Essmann, Gebhardt, Gillan, Hawks, Kaufmann, Laible, Laslovich, McGee, Moss, Ripley, Schmidt, Shockley, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 246 - Senator Jackson moved **HB 246** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

HB 374 - Senator Keane moved **HB 374** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Esp, Gebhardt, McGee.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 499 - Senator Brenden moved **HB 499** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Balyeat moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 34 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried,

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 59 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 103 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 170 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney,

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 190 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 228 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.

Total 40

Nays: Erickson, Hansen, Juneau, Kaufmann, Moss, Schmidt, Stewart-Peregoy, J. Tropila, Williams, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 371 concurred in as follows:

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Yeas: Bales, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 43

Nays: Balyeat, Barrett, Esp, McGee, Ripley, Steinbeisser, Mr. President.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 420 concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, Lewis, McGee, Ripley, Shockley, Steinbeisser, Tutvedt.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 466 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 477 concurred in as follows:

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 504 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: R. Brown, Curtiss, Hinkle, Jackson, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 628 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Stewart-Peregoy.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-SECOND LEGISLATIVE DAY - APRIL 1, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Thursday, April 2, 2009. Motion carried.

Senate adjourned at 2:54 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-THIRD LEGISLATIVE DAY**

Helena, Montana
April 2, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brueggeman and Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

4/2/2009

Correctly printed: **SJR 35, SJR 36, SR 15, SR 16, SR 17, HB 40, HB 107, HB 109, HB 112, HB 127, HB 246, HB 374, HB 480, HB 499, HB 533, HB 534, HB 574, HB 608, HJR 9.**

Correctly engrossed: **HB 536.**

Correctly enrolled: **SB 9, SB 68, SB 200, SB 228, SB 235, SB 261, SB 268, SB 290, SB 294, SB 447, SJR 17.**

Senator Brueggeman present at this time.

REPORTS OF STANDING COMMITTEES

NATURAL RESOURCES (Gebhardt, Chairman):

4/1/2009

SR 19, be adopted. Report adopted.

SR 20, be adopted. Report adopted.

HJR 30, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

4/1/2009

HB 173, be amended as follows:

1. Page 1, line 23.

Strike: "The"

Insert: "Subject to available funding, the"

2. Page 4, lines 7 and 8.

Strike: section 4 in its entirety

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 280, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

4/2/2009

SB 653, do pass. Report adopted.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

MESSAGES FROM THE GOVERNOR

April 2, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 40** sponsored by Senator Juneau, **Senate Bill 47** sponsored by Senator Steinbeisser, **Senate Bill 49** sponsored by Senator Wanzenried, **Senate Bill 184** sponsored by Senator Balyeat, **Senate Bill 216** sponsored by Senator Laslovich, and **Senate Bill 323** sponsored by Senator Erickson on April 1, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

FREE CONFERENCE COMMITTEE
on **Senate Bill 79**
Report No. 001, April 2, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 79** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 79** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 6.

Strike: "CERTAIN TERMS"

Insert: "\"NONEMERGENCY AMBULANCE TRANSPORT\" AND \"VOLUNTEER EMERGENCY MEDICAL TECHNICIAN\""

2. Page 3, line 8.

Following: "OR MORE"

Strike: " 1 "

Insert: "if the ambulance company is transporting a patient"

Following: "THAT COUNTY"

Strike: "WITH"

Insert: "that has"

3. Page 3, line 9.

Following: "OR LESS TO"

Strike: "A"

Insert: "the nearest"

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Strike: "IN THAT COUNTY"

Insert: "that is able to meet the patient's medical needs"

For the Senate:

Murphy, Chairman
Juneau
Laible

For the House:

Becker
Hendrick
Sands
Smith

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 108**
Report No. 001, April 2, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 108** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 108** (reference copy -- salmon) be amended as follows:

1. Title, page 1, lines 7 and 8.

Following: "PROCEEDINGS" on line 7

Strike: "EXCEPT IN CERTAIN CIRCUMSTANCES"

2. Title, page 1, lines 12 and 13.

Following: "PLANS" on line 12

Strike: "EXCEPT IN CERTAIN CIRCUMSTANCES"

3. Page 2, lines 18 and 19.

Following: "SERVICE" on line 18

Strike: "unless" on line 18 through "dishonorable" on line 19

4. Page 5, lines 11 and 12.

Following: "child" on line 11

Strike: "unless" on line 11 through "dishonorable" on line 12

5. Page 7, lines 25 and 26.

Following: "SERVICE" on line 25

Strike: "unless" on line 25 through "dishonorable" on line 26

For the Senate:

McGee, Chairman
Jent
Zinke

For the House:

Kerns
Kottel
Menahan
Stoker

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

MOTIONS

Senator Peterson moved that the Conference Committee on **HB 622** be dissolved and President Story be authorized to appoint a free conference committee. Motion carried. President Story appointed Senator R. Brown, Chairman, Senator Brenden, and Senator Windy Boy.

MESSAGES FROM THE OTHER HOUSE

HB 622 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 622**:

4/1/2009

Representative Dickenson, Vice Chair
Representative Hands
Representative Himmelberger
Representative MacLaren

Senate amendments to House bill concurred in:

4/1/2009

HB 386, introduced by O'Hara

Senate amendments to House joint resolution concurred in:

4/1/2009

HJR 33, introduced by Bergren

Senate bills concurred in and returned to the Senate:

4/1/2009

SB 9, introduced by Erickson
SB 68, introduced by Wanzenried
SB 200, introduced by Erickson
SB 228, introduced by Debby Barrett
SB 235, introduced by Murphy
SB 261, introduced by Wanzenried
SB 268, introduced by R. Brown
SB 290, introduced by Jackson
SB 294, introduced by Gillan
SB 447, introduced by Moss

Senate joint resolution concurred in and returned to the Senate:

4/1/2009

SJR 17, introduced by Perry

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/1/2009

SB 305, introduced by Tutvedt
SB 330, introduced by Moss
SB 396, introduced by Story
SB 427, introduced by Laslovich
SB 442, introduced by Laslovich
SB 457, introduced by Branae

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

SB 48 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 48**:

4/2/2009

Representative Pomnichowski, Vice Chair
Representative Blasdel
Representative Lake
Representative Wiseman

FIRST READING AND COMMITMENT OF BILLS

The following House bill was introduced, read first time, and referred to committee:

HB 678, introduced by Pomnichowski, Milburn, referred to Natural Resources.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 37, introduced by Essmann, referred to Taxation.

MOTIONS

Senator Brueggeman moved that **HB 615** be moved from Business, Labor, and Economic Affairs to Highways and Transportation. Motion carried.

Senator Laible moved to re-refer **HB 459** from Senate Education and Cultural Resources to Senate Finance and Claims. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Wanzenried in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 269 - Senator Shockley moved **HB 269** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Total 1

HB 318 - Senator Keane moved **HB 318** be concurred in. Motion carried as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Ripley, Shockley, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

HB 373 - Senator Zinke moved **HB 373** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 46

Nays: Barkus, Esp, Ripley.

Total 3

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

HB 380 - Senator Tutvedt moved **HB 380** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Excused: Windy Boy.
Total 1

HB 384 - Senator Brueggeman moved **HB 384** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 46

Nays: Balyeat, Esp, Hinkle.
Total 3

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 416 - Senator Brueggeman moved **HB 416** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: Barkus, Steinbeisser.
Total 2

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

Senator Gallus excused at this time.

HB 475 - Senator Cooney moved **HB 475** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Mr. President.
Total 35

Nays: Barkus, Barrett, Brenden, R. Brown, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, McGee, Ripley, Steinbeisser, Zinke.
Total 13

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Total 0

Excused: Gallus, Windy Boy.

Total 2

HB 630 - Senator Esp moved **HB 630** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 44

Nays: Balyeat, Black, Hinkle, McGee.

Total 4

Absent or not voting: None.

Total 0

Excused: Gallus, Windy Boy.

Total 2

HB 635 - Senator R. Brown moved **HB 635** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus, Windy Boy.

Total 2

Senator Gallus present at this time.

HJR 15 - Senator Shockley moved **HJR 15** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Branae, Brenden, T. Brown, Brueggeman, Cooney, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Larsen, Laslovich, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Zinke.

Total 27

Nays: Balyeat, Barrett, Black, R. Brown, Curtiss, Erickson, Esp, Essmann, Gebhardt, Hinkle, Jackson, Jent, Keane, Laible, Lewis, McGee, Perry, Ripley, Steinbeisser, M. Tropila, Tutvedt, Mr. President.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Total 22

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SB 57 - House Amendments - Senator Gillan moved House amendments to **SB 57** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SB 58 - House Amendments - Senator Gillan moved House amendments to **SB 58** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SB 95 - House Amendments - Senator Brueggeman moved House amendments to **SB 95** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau,

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SB 123 - House Amendments - Senator Squires moved House amendments to **SB 123** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SB 133 - House Amendments - Senator Kaufmann moved House amendments to **SB 133** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 34

Nays: Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Gallus, Gebhardt, Laible, McGee, Perry, Ripley, Tutvedt, Zinke, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

SB 148 - House Amendments - Senator J. Peterson moved House amendments to **SB 148** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 164 - House Amendments - Senator Debby Barrett moved House amendments to **SB 164** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 174 - House Amendments - Senator Perry moved House amendments to **SB 174** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 202 - House Amendments - Senator Hinkle moved House amendments to **SB 202** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 299 - House Amendments - Senator J. Tropila moved House amendments to **SB 299** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 48

Nays: Barkus.
Total 1

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SB 351 - House Amendments - Senator Essmann moved House amendments to **SB 351** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Total 42

Nays: Balyeat, Barkus, Brenden, Hinkle, Jent, Juneau, Mr. President.

Total 7

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SB 371 - House Amendments - Senator Perry moved House amendments to **SB 371** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Williams, Zinke, Mr. President.

Total 36

Nays: Branae, Cooney, Erickson, Hansen, Juneau, Kaufmann, Keane, Moss, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried.

Total 13

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SB 399 - House Amendments - Senator Laslovich moved House amendments to **SB 399** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Wanzenried moved the Committee of the Whole report be adopted. Report adopted unanimously.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 40 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 107 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 109 concurred in as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, Curtiss, Hinkle, Jackson, McGee, Ripley, Steinbeisser, Tutvedt, Zinke.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Total 13

Paired: Windy Boy, Aye; Barkus, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 112 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke, Mr. President.

Total 44

Nays: Balyeat, R. Brown, Hinkle, McGee, Tutvedt.

Total 5

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

HB 127 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke, Mr. President.

Total 40

Nays: Balyeat, Barkus, R. Brown, Curtiss, Esp, Essmann, Hinkle, McGee, Tutvedt.

Total 9

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

HB 246 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 29

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Nays: Branae, Cooney, Erickson, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 21

Paired: Barkus, Aye; Windy Boy, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 374 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.
Total 43

Nays: Balyeat, Barkus, Esp, Hinkle, McGee, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 486 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 43

Nays: Brenden, Curtiss, Gebhardt, Hinkle, McGee, Shockley.
Total 6

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 499 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley,

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.
Total 47

Nays: Esp, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 531 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 38

Nays: Black, Branae, Cooney, Erickson, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Moss.
Total 11

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 533 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Tutvedt, Wanzenried, Williams, Mr. President.
Total 38

Nays: Barrett, Erickson, Juneau, Kaufmann, Keane, Murphy, Ripley, Stewart-Peregoy, J. Tropila, M. Tropila, Windy Boy, Zinke.
Total 12

Paired: Barkus, Aye; Windy Boy, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 534 concurred in as follows:

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Yeas: Bales, Balyeat, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Mr. President.

Total 44

Nays: Barkus, Brenden, R. Brown, Hinkle, Zinke.

Total 5

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

HB 536 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Mr. President.

Total 41

Nays: Barkus, Brenden, Gebhardt, Juneau, Murphy, Steinbeisser, Tutvedt, Zinke.

Total 8

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

HB 574 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 46

Nays: Juneau, Kaufmann, Murphy.

Total 3

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

HB 602 concurred in as follows:

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 47

Nays: Jent, Keane.
Total 2

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 608 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 46

Nays: Balyeat, Curtiss, Hinkle.
Total 3

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HJR 9 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SPECIAL ORDERS OF THE DAY

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

SR 15 - Senator Gallus moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Senate Resolution No. 15**, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SR 16 - Senator Gallus moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Senate Resolution No. 16**, and that the ayes and nays be spread upon the journal.

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 40

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Hinkle, Ripley, Shockley.
Total 9

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

SR 17 - Senator Gallus moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Senate Resolution No. 17**, and that the ayes and nays be spread upon the journal.

Yeas: Balyeat, Barkus, Barrett, Branae, Brenden, T. Brown, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.
Total 40

Nays: Bales, Black, R. Brown, Brueggeman, Curtiss, Hinkle, McGee, Peterson, Mr. President.

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Total 9

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SR 24 - Senator Perry moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Senate Resolution No. 24**, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 48

Nays: Stewart-Peregoy.

Total 1

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SR 26 - Senator Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Senate Resolution No. 26**, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 48

Nays: Essmann.

Total 1

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

SR 27 - Senator Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Senate Resolution No. 27**, and that the ayes and nays be spread upon the journal.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
SEVENTY-THIRD LEGISLATIVE DAY - APRIL 2, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Windy Boy.

Total 1

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 2:00 p.m., Friday, April 3, 2009. Motion carried.

Senate adjourned at 2:27 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
April 3, 2009

Senate Chambers
State Capitol

Senate convened at 2:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Jent, excused. Quorum present.

Senator Jent present at this time.

BILLS AND JOURNALS:

4/3/2009

Correctly printed: **SJR 37, SR 19, SR 20, HB 269, HB 280, HB 318, HB 373, HB 380, HB 384, HB 416, HB 475, HB 630, HB 635, HB 653, HJR 15, HJR 30.**

Correctly engrossed: **HB 173.**

Correctly enrolled: **SB 76, SB 124, SB 136, SB 192, SB 275, SB 276, SB 311, SB 375, SB 392, SB 400, SB 401, SJR 11, SJR 20, SJR 26, SR 15, SR 16, SR 17, HJR 24, HJR 26, HJR 27.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

4/3/2009

SR 18, be adopted. Report adopted.

HB 583, be amended as follows:

1. Title, page 1, line 5.

Strike: "SIX"

Insert: "FOUR"

2. Title, page 1, line 7.

Following: "~~PROVIDING A FUND TRANSFER;~~"

Insert: "PROVIDING A FUND TRANSFER;"

3. Page 2, line 2.

Strike: "six"

Insert: "four"

4. Page 2.

Following: line 18

Insert: "NEW SECTION. Section 2. Fund transfer. There is transferred \$250,000 from the research and commercialization state special revenue account established in 90-3-1002 to the state general fund in each year of the biennium, to be spent in accordance with 90-3-1003(4)."

Renumber: subsequent sections

5. Page 2, line 21 through line 22.

Strike: "AMOUNT ALLOCATED" on line 21 through "CHAPTER 9," on line 22

Insert: "general fund"

6. Page 2, line 25.

Strike: "Six"

Insert: "Four"

Strike: "\$360,000" in two places

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Insert: "\$240,000" in two places

7. Page 2, line 27.

Strike: "\$370,000" in two places

Insert: "\$250,000" in two places

8. Page 2.

Following: line 30

Insert: "COORDINATION SECTION. **Section 5. Coordination instruction.** If [this act] is passed and approved and House Bill No. 123 fails, then the fund transfer provided for in [section 2 of this act] for fiscal year 2011 is void."

And, as amended, be concurred in. Report adopted.

HB 664, be amended as follows:

1. Page 2, line 22.

Strike: "\$20,000"

Insert: "\$5,000"

And, as amended, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

4/2/2009

HB 333, be amended as follows:

1. Title, page 1, line 6.

Strike: "REQUIRING"

Insert: "ALLOWING"

2. Title, page 1, line 9.

Strike: "AND A TERMINATION DATE"

3. Page 1, line 20 through line 21.

Strike: "during" on line 20 through "biennium," on line 22

4. Page 1, line 21.

Strike: "shall"

Insert: "may"

5. Page 2, line 15 through line 19.

Strike: subsection (6) in its entirety

Insert: "(6) Prior to September 1 of each even-numbered year, the bureau shall update the energy and telecommunications interim committee on research conducted pursuant to this section and funding received pursuant to [section 2]."

6. Page 2, line 21 through line 28.

Strike: section 2 in its entirety

Insert: "NEW SECTION. **Section 2. Authority to accept gifts, grants, contributions, and reimbursements.** The Montana bureau of mines and geology may accept gifts, grants, contributions pursuant to [section 1(3)], and reimbursements to be used for the purposes of [section 1]."

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

7. Page 3, line 11.

Strike: section 5 in its entirety

And, as amended, be concurred in. Report adopted.

FISH AND GAME (Barkus, Chairman):

4/3/2009

HB 42, be amended as follows:

1. Title, page 1, line 9.

Following: "ACCOUNT;"

Insert: "PROVIDING A STATUTORY APPROPRIATION;"

Following: "SECTIONS"

Insert: "17-7-502,"

Following: "87-1-201"

Insert: ", "

2. Title, page 1, line 10.

Strike: "AN"

Strike: "DATE"

Insert: "DATES AND A TERMINATION DATE"

3. Page 1, line 13.

Following: line 12

Insert: "**Section 1.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; [section 3]; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments parenthetical termination material from MCA."

Renumber: subsequent sections

4. Page 3, line 14.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Following: "ACCOUNT"

Insert: "are statutorily appropriated, as provided in 17-7-502, to the department and"

5. Page 3, line 15.

Following: "PROVISIONS"

Insert: "of"

6. Page 3, line 16.

Following: line 15

Insert: "NEW SECTION. **Section 4. Forest management account.** (1) There is a special revenue account called the forest management account to the credit of the department of fish, wildlife, and parks.

(2) The forest management account consists of money deposited into the account from forest management projects undertaken pursuant to 87-1-201(9)(a)(iv) and from any other source. Any interest earned by the account must be deposited into the account.

(3) Except as otherwise directed by state or federal law, funds from the forest management account must be used by the department to implement forest management projects that may result pursuant to the provisions of 87-1-201(9)(a)(iv)."

7. Page 5, line 18.

Strike: "[SECTION 2] IS"

Insert: "[Sections 3 and 4] are"

8. Page 5, line 19.

Strike: "[SECTION 2]"

Insert: "[sections 3 and 4]"

9. Page 5, line 21.

Strike: "DATE"

Insert: "dates"

Following: "DATE."

Insert: "(1)"

Strike: "[THIS ACT]"

Insert: "Except as provided in subsection (2), [this act]"

Following: "2009."

Insert: "(2) [Section 4] is effective July 1, 2013."

10. Page 5, line 22.

Following: line 21

Insert: "NEW SECTION. **Section 8. Termination.** [Section 3] terminates June 30, 2013."

And, as amended, be concurred in. Report adopted.

HB 585, be concurred in. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

4/2/2009

SR 32, be adopted. Report adopted.

HB 238, be concurred in. Report adopted.

HB 306, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

4/3/2009

HB 487, be concurred in. Report adopted.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

HB 562, be concurred in. Report adopted.

HB 670, be amended as follows:

1. Page 1, line 21.

Following: "reduce"

Insert: "by 95% "

2. Page 1, line 22.

Strike: "other than land,"

Following: "of that property"

Insert: ", other than land, that is"

3. Page 1, line 23.

Strike: "by 95% "

4. Page 2, line 28 through line 29.

Following: "provide that" on line 28

Insert: "commercial"

Strike: "other than land" on lines 28 and 29

Insert: "improvements"

Strike: "improvements," on line 29

Following: "of that property"

Insert: ", other than land,"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE GOVERNOR

April 3, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 141** sponsored by Senator J. Tropila, **Senate Bill 173** sponsored by Senator Murphy, **Senate Bill 208** sponsored by Senator Lewis, **Senate Bill 409** sponsored by Senator Brueggeman, on April 2, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

April 2, 2009

The Honorable Robert Story
President, Montana State Senate
Capitol Station
Helena, Montana 59620

Dear President Story:

Attached is a list of appointments requiring confirmation by the Montana State Senate. We have supplied the following information for appointees:

Reference to statute, and a brief description of the statute
Name, address, and phone number(s) for each appointee
Appointee qualifications and term of appointment
Brief biographies

Additional information, including a complete list of gubernatorial appointees, is available online at: <http://boards.mt.gov/>. Meanwhile, please don't hesitate to contact our office if my staff or I can be of assistance to you.

Sincerely yours,

BRIAN SCHWEITZER
Governor

County Printing Board -- 2-15-1026, Montana Code Annotated

The board consists of five members as follows: two members of the printing industry; two county commissioners; and one member of the general public. (NOTE: The interim appointments of Mr. Killoy, Mr. Oraw, Commissioner Roose and Mr. Wester were confirmed by the Senate in SR 2. These appointments are now for the 2009-2011 term.)

Dan Killoy, PO Box 1216, Miles City MT 59301 (Member)

Contact Phone(s): 406-234-0450, 406-853-0012

Appointment date: 4/1/2009; Term ends: April 1, 2011

Qualification: printing industry representative

Killoy is the publisher of the Miles City Star. He has served as president of the Butte Chamber of Commerce, president of the Miles Community College Booster Club, and vice president of the Montana Newspaper Association.

Calvin J. Oraw, 637 11th St SE, Sidney MT 59270 (Member)

Contact Phone(s): 406-482-1322

Appointment date: 4/1/2009; Term ends: April 1, 2011

Qualification: public representative

Oraw is the pastor of the Zion Lutheran Church. He has served on the Sidney city council and city-county planning board, and has a bachelor's degree in agriculture business from Montana State University.

Marianne Roose, PO Box 2012, Eureka MT 59917 (Member)

Contact Phone(s): 406-297-3139, 406-882-4544

Appointment date: 4/1/2009; Term ends: April 1, 2011

Qualification: County Commissioner

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Roose was appointed county commissioner in 1997, and has been elected three times since then. Prior to becoming commissioner, Roose was the Lincoln County north annex office manager and justice court clerk.

Milton Wester, 1540 W 9th St, Laurel MT 59044 (Member)

Contact Phone(s): 406-628-4412, 406-628-7049

Appointment date: 4/1/2009; Term ends: April 1, 2011

Qualification: printing industry representative

Wester is the publisher of Outlook Publishing, Inc. He attended then-Eastern Montana College where he studied English and History. He's also been active in the Montana Newspaper Association.

Laura Obert, PO Box 196, Townsend MT 59644 (Member)

Contact Phone(s): 406-980-2050, 406-266-4816

Appointment date: 4/1/2009; Term ends: April 1, 2011

Qualification: County Commissioner

Obert was elected to the county commission in 2008. She has served as secretary of the Broadwater County Development Corporation and has participated in Soroptimist International and Rotary International.

Board of Funeral Service -- 2-15-1743, Montana Code Annotated

The board consists of six members who serve staggered 5-year terms. Three are licensed morticians, one member is a public representative not engaged in the practice of mortuary science or funeral directing, one member is a licensed crematory operator or crematory technician or a mortician who is engaged in a crematory operation and one is a representative of a cemetery company.

R.J. Brown, 203 Nelson Dr, Lewistown MT 59457 (Member)

Contact Phone(s): 406-538-8711, 406-535-5122

Appointment date: 7/1/2009; Term ends: July 1, 2014

Qualification: mortician

Brown is a licensed mortician and owns Cloyd Funeral Home. He also serves as county coroner for Fergus and Petroleum Counties. Brown graduated from the San Francisco College of Mortuary Science, and is active in state and national professional organizations and other community groups..

Board of Hearing Aid Dispensers -- 2-15-1740, Montana Code Annotated

The board consists of seven members who serve 3-year terms: one who holds or is eligible for certification from the American board of otolaryngology; two hearing aid dispensers who have been licensed for at least 5 years, who possess national certification in audiology and have a master's level college degree; two licensed dispensers who do not hold a master's degree in audiology but have been licensed dispensers/fitters for at least 5 years; two public members, each of whom is not in the hearing health field and one of whom regularly uses a hearing aid because the person has a demonstrated hearing impairment. A member may not be reappointed within 1 year after the expiration of the member's second consecutive full term.

Lee Frantz Oines, 524 Benton Ave, Missoula MT 59801 (Member)

Contact Phone(s): 406-549-1951, 406-542-3625

Appointment date: 4/1/2009; Term ends: July 1, 2011

Qualification: dispenser with master's degree and national certification

Oines is an audiologist with Rocky Mountain Hearing & Balance. She received her master's in audiology from the University of Colorado. She's a member of the Montana Speech-Language-Hearing Association and the American Academy of Audiology.

Jim Lieberg, 430 Butler, Helena MT 59602 (Member)

Contact Phone(s): 406-461-5200

Appointment date: 4/1/2009; Term ends: July 1, 2011

Qualification: public representative with hearing aid

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Lieberg is manager of Lehrkind's Coca-Cola. He has a sociology degree from New York Regents College, and is active in the Lion's Club. Lieberg also served as a Lieutenant Colonel in the Montana National Guard.

Mervin Michel, PO Box 3705, Great Falls MT 59403 (Member)

Contact Phone(s): 406-727-7269

Appointment date: 7/1/2009; Term ends: July 1, 2012

Qualification: hearing aid dispenser (no masters)

Michel has been a licensed hearing aid dispenser for over 30 years and is employed by the Hearing Aid Institute. He earned his board certification in 1980, and also served on state boards and councils in the state of Washington.

Brian Bolenbaugh, 1511 S Russell St, Missoula MT 59801 (Member)

Contact Phone(s): 406-543-5690

Appointment date: 7/1/2009; Term ends: July 1, 2012

Qualification: hearing aid dispenser (no masters)

Bolenbaugh is a hearing aid dispenser and franchisee with the Miracle-Ear Centers. He's a member of the Montana Hearing Society and other professional organizations.. He was originally licensed in Montana in 1980, has been board certified 1997, and has also dispensed hearing aids in California, Oklahoma and Colorado.

Board of Investments -- 2-15-1808, Montana Code Annotated

The board is designated as a quasi-judicial board and consists of nine members. The members are: one member from the Public Employees' Retirement Board, one member from the Teachers' Retirement Board and seven members who will provide a balance of professional expertise and public interest and accountability, who are informed and experienced in the subject of investments, and who are representative of: the financial community; small business; agriculture; and labor.

Elouise Cobell, PO Box 3029, Browning MT 59417 (Member)

Contact Phone(s): 406-338-2992

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: agriculture community representative

Cobell and her husband operate a working ranch, producing cattle and crops. Her expertise includes service as co-chair of Native American Bank, NA., chairperson for the Blackfeet National Bank, board member for First Interstate Bank, and past service (13 years) as treasurer for the Blackfeet Indian Nation in Montana.

Teresa Olcott Cohea, 213 Spencer ST, Helena MT 59601 (Member)

Contact Phone(s): 406-442-9600, 406-442-5289

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: financial community representative

Cohea is a Financial consultant with DA Davidson & Co. She served in various budget, financial and administrative positions with the state of Montana, including legislative fiscal analyst (1990-1993) and chief of staff to Governor Ted Schwinden. Cohea serves on the Prickly Pear Land Trust and on the board of the Holter Museum.

Jack Prothero, 619 3rd Ave SW, Great Falls MT 59404 (Member)

Contact Phone(s): 406-761-3683

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: small business community representative

Prothero is a retired banker and receive an MBA in finance from the University of Washington. He is involved with NeighborWorks Great Falls and NeighborWorks Montana, which provide homeowner opportunities and services to Montanans. Prothero also served on the board of the University of Montana Business School.

James Turcotte, 1376 Beaverhead Road, Helena MT 59602 (Member)

Contact Phone(s): 406-442-5012, 406-442-0113

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: TRS representative

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Turcott is a financial consultant with Raymond James Financial Services. He is a securities broker and registered investment advisor, and has a bachelor's degree in accounting from Montana State University-Billings. Turcotte has also served on the Helena Regional Airport Board.

Patrick McKittrick, 636 Carol Dr, Great Falls MT 59405 (Member)

Contact Phone(s): 406-727-4241, 406-761-5730

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: PERS Representative

McKittrick received his BA in political science from Carroll College and his JD from the University of Montana. He served in the Montana House of Representatives from 1971-1977 (Speaker, 1975-77). McKittrick served as chairman of the Montana Economic Development Board, and was a board member for the Montana Committee for the Humanities, Campaign for Human Development and the Burton K. Wheeler Foundation among other organizations.

Livestock Loss Reduction and Mitigation Board -- 2-15-3110, Montana Code Annotated

The board consists of seven members who serve staggered, 4-year terms: three members from a list of names recommended by the board of livestock; three members from a list of names recommended by the fish, wildlife, and parks commission; and one member of the general public. Each board member must have knowledge of or have experience in at least one of the following: the raising of livestock in Montana; livestock marketing, valuations, sales, or breeding associations; the interaction of wolves with livestock and livestock mortality caused by wolves; wildlife conservation; administration; and fundraising. The board is designated as a quasi-judicial board, except that an attorney member is not required. (NOTE: The interim appointments of Mr. Radtke, Ms. Wankel and Mr. Cross were confirmed by the Senate in SR 2. These appointments are now for the 2009-2013 term.)

Brad Radtke, 426 Cow Creek Rd, Drummond MT 59832 (Member)

Contact Phone(s): 406-288-3502

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: Fish, Wildlife and Parks Commission

Radtke is a 4th generation rancher. He has a bachelor's degree in renewable resource management from Montana State University. Radtke is on the Granite County Conservation District board and helped create a local watershed group.

Whitney Wankel, 511 Dove Ct, Bozeman MT 59718 (Member)

Contact Phone(s): 406-951-0538

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: public member

Wankel, a senior at Montana State University, is the chairperson of the Young Cattlemen's Committee of the Montana Cattlemen's Association and is parliamentarian for the national Women Involved in Farm Economics. She has worked as a teaching assistant, ranch hand, marketing intern and information media specialist intern during her school career.

James Cross, 618 Leisure Dr, Kalispell MT 59901 (Member)

Contact Phone(s): 406-755-4914

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: Fish, Wildlife and Parks Commission

Cross has long experience on the former Governor's Wolf Management Advisory Council. A retired Fish, Wildlife and Parks Department employee; he's also a certified wildlife biologist.

Michael Leahy, 109 S 8th Ave, Bozeman MT 59715 (Member)

Contact Phone(s): 406-586-3970

Appointment date: 4/1/2009; Term ends: January 1, 2013

Qualification: Fish, Wildlife and Parks Commission

Leahy is the Rocky Mountain Region director for the Defenders of Wildlife, and works on livestock loss compensation and deterrence programs throughout the region and the Great Plains. He has a JD from Georgetown and a BS from Cornell University.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

John Herman, PO Box 7, Hot Springs MT 59845 (Member)

Contact Phone(s): 406-849-5752

Appointment date: 4/1/2009; Term ends: January 1, 2011

Qualification: Board of Livestock

Herman is a 5th generation rancher, located on the northwestern edge of the Flathead Reservation. He's been involved with the Montana Cattlemen's Association, fundraising for local schools, and food donations of ranch beef to the Hot Springs Senior Citizens Center and the Tribal Nutrition Center.

Board of Pharmacy -- 2-15-1733, Montana Code Annotated

The board consists of six members who serve staggered 5-year terms (maximum of two consecutive full terms). Members are: three licensed pharmacists (with 5 consecutive years experience immediately prior to appointment and continued active engagement in pharmacy while on the board), one member a registered pharmacy technician (with 5 consecutive years experience immediately prior to appointment and continued active engagement as a pharmacy technician while on the board), and two members from the general public who are residents of Montana and have never been actively directly related to the practice of pharmacy, been a member of the pharmacy profession or a spouse of a member of the pharmacy profession, or have material financial interest in providing pharmacy services. Licensed pharmacists must have degrees from the University of Montana-Missoula or an accredited pharmacy degree program approved by the board.

Michael Bertagnolli, 2 Tartan Rd, Three Forks MT 59752 (Member)

Contact Phone(s): 406-522-1759, 406-285-6880

Appointment date: 7/1/2009; Term ends: July 1, 2014

Qualification: licensed pharmacist

Bertagnolli studied pre-pharmacy at Carroll College, received his pharmacy degree from the University of Montana and an MBA in health care administration from Regis University in Denver. He is currently director of pharmacy for Bozeman Deaconess Hospital, and has also had retail and VA pharmacy experience. He was Montana Pharmacist of the Year in 2005.

Board of Plumbers -- 2-15-1765, Montana Code Annotated

The board consists of nine members who serve staggered 4-year terms. The members are: two master plumbers and two journeyman plumbers, 18 years of age or older, who have been residents of this state for more than 1 year, and who have been duly licensed master or journeyman plumbers at least 5 out of the last 8 years immediately preceding their appointment; one registered professional engineer qualified in mechanical engineering; three representatives of the public who are not engaged in the business of installing or selling plumbing equipment; and one representative of the Department of Environmental Quality, who must have experience in the regulation of drinking water systems.

Donna L. Paulson, 308 27th St N, Great Falls MT 59401 (Member)

Contact Phone(s): 406-761-1581, 406-452-9117

Appointment date: 5/4/2009; Term ends: May 4, 2013

Qualification: public representative

Paulson is the controller for B & B Heating & Air Conditioning. Previously, she worked for her family's contracting business (Nelson Plumbing and Heating).

Board of Public Accountants -- 2-15-1756, Montana Code Annotated

The seven-member board serves staggered 5-year terms and consists of: four certified public accountants, one licensed public accountant and two public members. The CPAs must be actively engaged in the profession, and have been certified for 5 years prior to appointment. These members cannot be from the same county. The LPA also must have had a valid license for 5 years prior to appointment and public members cannot be engaged in public accounting. (NOTE: HB 80, signed into law April 1, allows for reappointment of members.)

Rick Reisig, 21 10th St S, Great Falls MT 59401 (Member)

Contact Phone(s): 406-727-0888

Appointment date: 10/1/2009; Term ends: July 1, 2013

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Qualification: Certified Public Accountant

Reisig is a CPA and a shareholder in Hamilton Misfeldt & Company, which he joined in 1982. He has a bachelor's degree in accounting from Montana State University, and is a member of the American Institute of CPAs and past president of the Montana Society of CPAs.

Public Employees Retirement Board -- 2-15-1009, Montana Code Annotated

The board has seven members who serve five-year terms. Three members must be public employees who are active members of a public employee retirement system, one retired public employee who is a member of a public employee retirement system, two public members and one member with experience in investment management or financial planning.

Terrence M. Smith, 528 Peace Pipe Dr, Bozeman MT 59715 (Member)

Contact Phone(s): 406-995-2660; 406-556-4683

Appointment date: 4/1/2009; Term ends: April 1, 2014

Qualification: public employee/defined contribution plan

Smith is the financial officer of the Big Sky County Water & Sewer District 363. He graduated with honors from the University of Colorado with a degree in business administration.

Patrick McKittrick, PO Box 1184, Great Falls MT 59403 (Member)

Contact Phone(s): 406-727-4041, 406-761-5730

Appointment date: 4/1/2009; Term ends: April 1, 2014

Qualification: experience in investment management

McKittrick received his BA in political science from Carroll College and his JD from the University of Montana. He served in the Montana House of Representatives from 1971-1977 (Speaker, 1975-77). McKittrick served as chairman of the Montana Economic Development Board, and was a board member for the Montana Committee for the Humanities, Campaign for Human Development and the Burton K. Wheeler Foundation among other organizations.

Board of Sanitarians -- 2-15-1751, Montana Code Annotated

The board consists of five members who are residents of Montana and who serve staggered 3-year terms. Three of the members are registered sanitarians with a minimum of 3 years of experience practicing as a sanitarian in the state of Montana; two members are from the public but not sanitarians and shall represent the interests of the public at large.

Rodney Fink, PO Box 111, Columbus MT 59019 (Member)

Contact Phone(s): 406-321-0794

Appointment date: 7/1/2009; Term ends: July 1, 2012

Qualification: sanitarian

Fink graduated from Montana State University-Billings with a degree in biology and math. He's a registered sanitarian and works as a contract sanitarian.

April 3, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 418, **"AN ACT AUTHORIZING INVESTOR-OWNED EQUINE SLAUGHTER OR PROCESSING FACILITIES; PROHIBITING A COURT FROM GRANTING AN INJUNCTION TO STOP OR DELAY THE CONSTRUCTION OF AN EQUINE SLAUGHTER OR PROCESSING FACILITY BASED ON LEGAL CHALLENGES OR APPEALS OF A PERMIT, LICENSE, CERTIFICATE, OR OTHER APPROVAL ISSUED IN CONJUNCTION WITH ENVIRONMENTAL LAWS; SETTING BONDING REQUIREMENTS; AND AMENDING SECTIONS 75-1 -201,75-2-104.75-5-614.75-5- 621, 75-5-641, 81-9-1 11, 81 -9-1 12, 81-9-1 15,81-9-116, 81-9-201, 81-9-229, AND 81 -9-230, MCA."**

I begin by saying that my proposed amendments do not prevent the licensing and operation of a horse slaughter facility in Montana. My amendments retain those aspects of HB 41 8 that clarify existing law to ensure that a horse slaughter facility, if licensed to operate in Montana, conforms to Montana's current laws pertaining to all livestock slaughter facilities. My amendments are focused on eliminating what I believe is the unnecessary and potentially harmful special treatment that would be granted to one particular industry under this bill.

Before addressing my specific amendments, I want you to know that, like you, I believe horse owners must be responsible for the health and care of their animals. Like you, I believe it is unacceptable that any horse would be left starving or to die due to neglect. I also believe owners should have access to a legal method to put their horses down as necessary and appropriate -- due to age, infirmity, or other legitimate circumstances. While I understand the value in licensing horse slaughter facilities, it is equally important that any facility approved to operate in Montana comply with this state's health and environmental laws. Therefore, a person applying to license a horse slaughter facility who wishes to do so in accordance with Montana law has nothing to fear from the amendments I propose.

Specifically, my amendments address the limitations imposed upon a person seeking to bring a legal challenge to a license approving a horse slaughter facility. Those limitations are found in sections 1 and 2 of HB 41 8, which my proposed amendments would strike. I believe sections 1 and 2 of the bill are unnecessary, cast too wide a net, and suffer from potential constitutional infirmities.

Section 1 of HB 418 would prohibit a court from enjoining the construction of a horse slaughter facility based on a challenge to a permit or license approving the facility under Montana's environmental laws. An injunction is a remedy in equity available to litigants to preserve the status quo where a remedy in law would be inadequate. The remedy of injunction is not freely granted. It is my opinion that current statutory standards for the issuance of injunctions already provide sufficient safeguards to ensure the remedy of injunction will only be available to a party under limited and justified circumstances. For example, § 27-1 9-201, MCA, authorizes a court to grant a preliminary injunction only if it appears the applicant will be successful on the merits, a great or irreparable injury would occur if the activity were allowed to continue, when it appears the adverse party is doing or threatening to do an act in violation of the applicant's rights, or for other similarly justified equitable reasons. In other words, I believe that the legal standards currently in existence sufficiently safeguard the rights of all parties, and, conversely, that the restriction upon a court's power to enjoin construction of a facility unnecessarily tips this balance.

Section 1 of HB 418 additionally would impose liability for "all financial losses" incurred by the facility as a result of an injunction halting operations of the facility if the person bringing the challenge is ultimately unsuccessful. As a practical matter, and I assume the bill was so designed, this penalty provision would have the effect of chilling any efforts to enjoin the operation of a constructed horse slaughter facility by a person challenging the adequacy of the permit, notwithstanding the real harm that might be caused by the continuing operation of the facility. I am unaware of any equivalent provision in Montana law, and I believe its inclusion in this bill unfairly tips the balance by discouraging a challenger from seeking what would otherwise be a legitimate injunction for the benefit and protection of public health and safety. Again, I believe the current, established legal standards relating to the issuance of ir~junctions- including ,the current standards pertaining to an award of costs and damages to persons

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

wrongfully enjoined - are sufficiently stringent and properly balance the competing rights of litigants. I do not believe special rules are necessary or appropriate for this particular industry.

Turning to section 2 of HB 418, I am concerned that this mandatory surety bond requirement, established in the bill at the high rate of 20% of the cost to build or operate the facility, and imposed upon any person who challenges a license granted to operate a horse slaughter facility, would effectively deny citizens access to the courts in Montana, in contravention of Article II, section 16 of the Montana Constitution. I am unaware of any other provision in Montana law requiring the posting of a surety bond as a condition to bringing a challenge to the issuance of a permit under Montana's environmental laws.

I also question the language found in subsection (4) of section 2, which authorizes an award of attorney fees and costs on grounds that the challenge was "without merit." I believe the meaning of that expression is unclear and would, itself, lead to litigation. Current law already provides courts with well-settled authority to sanction parties or their attorneys who file pleadings in court for improper purposes. As with my other concerns, I see no reason to impose new, special, and undefined standards in this bill, applicable to this one industry, where current law adequately provides for sanctions in proper circumstances.

In addition to the above amendments, I also propose an amendment to section 12 of the bill. As written, the bill requires "investor-owned" horse slaughter facilities to be licensed pursuant to Montana's licensing laws. My amendment would require all horse slaughter facilities, whether "investor-owned" or otherwise, to be licensed. The remainder of my amendments are necessary to coordinate with the amendments to strike sections 1 and 2 of the bill.

I recognize that HB 418 has stirred the emotions of many. As a current and long-time horse owner, myself, I understand those feelings. However, I have endeavored to make my decisions on the bill based on what I believe is the correct approach from both a policy and a legal perspective. I respectfully ask that you support my proposed amendments to HB 418.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 418

Amendments to House Bill No. 418
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:52am)

1. Title, line 8.

Strike: "INVESTOR-OWNED"

2. Title, lines 9 through 12.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Following: "FACILITIES;" on line 9

Strike: remainder of line 9 through "REQUIREMENTS;" on line 12

3. Title, line 13.

Strike: "75-1-201, 75-2-104, 75-5-614, 75-5-621, 75-5-641,"

4. Page 1, line 18 through page 9, line 15.

Strike: sections 1 through 7 in their entirety

Renumber: subsequent sections

5. Page 11, line 21.

Strike: "Investor-owned equine"

Insert: "Equine"

6. Page 12, line 21 through line 23.

Strike: section 15 in its entirety

MESSAGES FROM THE OTHER HOUSE

Senate bills concurred in and returned to the Senate:

4/2/2009

SB 62, introduced by Laible
SB 71, introduced by Erickson
SB 76, introduced by Black
SB 84, introduced by Gillan
SB 124, introduced by Squires
SB 126, introduced by Murphy
SB 127, introduced by Gillan
SB 136, introduced by Gebhardt
SB 151, introduced by Brueggeman
SB 156, introduced by Cooney
SB 192, introduced by Zinke
SB 193, introduced by McGee
SB 222, introduced by Hansen
SB 227, introduced by R. Brown
SB 275, introduced by Squires
SB 276, introduced by Squires
SB 297, introduced by Larsen
SB 308, introduced by Keane
SB 311, introduced by Gallus
SB 360, introduced by Keane
SB 367, introduced by Hamlett
SB 375, introduced by J. Peterson
SB 388, introduced by Gillan
SB 392, introduced by Brueggeman
SB 400, introduced by Laslovich
SB 401, introduced by Laslovich
SB 405, introduced by Moss
SB 424, introduced by Barkus
SB 441, introduced by Laslovich
SB 444, introduced by Laslovich
SB 463, introduced by Wanzonried

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Senate joint resolutions concurred in and returned to the Senate:

4/2/2009

SJR 11, introduced by Brueggeman

SJR 20, introduced by Story

SJR 26, introduced by Juneau

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/2/2009

SB 32, introduced by Barkus

SB 281, introduced by Shockley

SB 286, introduced by T. Brown

SB 306, introduced by Esp

SB 349, introduced by Tutvedt

Senate amendments to House bills concurred in:

4/3/2009

HB 19, introduced by Ingraham

HB 85, introduced by Sands

HB 95, introduced by Hawk

HB 147, introduced by MacLaren

HB 177, introduced by Kottel

HB 222, introduced by Cohenour

HB 328, introduced by MacLaren

HB 338, introduced by Ankney

HB 343, introduced by A. Noonan

HB 362, introduced by Henry

HB 412, introduced by Wiseman

HB 488, introduced by Jones

HB 517, introduced by Hollenbaugh

HB 544, introduced by Vincent

HB 557, introduced by Belcourt

HB 563, introduced by Kottel

HB 567, introduced by Sonju

HB 588, introduced by Ankney

HB 591, introduced by Pease-Lopez

Senate amendments to House joint resolutions concurred in:

4/3/2009

HJR 4, introduced by Vincent

HJR 14, introduced by Warburton

HB 228 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 228**:

4/3/2009

Representative Kottel, Vice Chair

Representative Berry

Representative Kerns

Representative Menahan

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

MOTIONS

Senator Peterson moved the Conference Committee on **SB 108** be dissolved, and that President Story be authorized to appoint a Free Conference Committee on **SB 108**. President Story appointed Senator McGee (Chair), Senator Zinke, and Senator Jent.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SJR 30 - Senator Zinke moved **SJR 30** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 31 - Senator Windy Boy moved **SJR 31** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

SJR 32 - Senator Windy Boy moved **SJR 32** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 47

Nays: McGee, Zinke, Mr. President.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 449 - Senator Gallus moved **HB 449** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat, Hinkle.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 480 - Senator Jent moved **HB 480** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Excused: None.
Total 0

HB 23 - Conference Committee Report No. 1 - Senator Curtiss moved the Conference Committee report to **HB 23** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 26 - House Amendments - Senator Murphy moved House amendments to **SB 26** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 96 - House Amendments - Senator Jent moved House amendments to **SB 96** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 104 - House Amendments - Senator Esp moved House amendments to **SB 104** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 113 - House Amendments - Senator Keane moved House amendments to **SB 113** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator McGee assumed the chair.

SB 158 - House Amendments - Senator Barkus moved House amendments to **SB 158** be concurred in. Motion carried as follows:

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 171 - House Amendments - Senator Barkus moved House amendments to **SB 171** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Barkus reassumed the chair.

SB 247 - House Amendments - Senator Black moved House amendments to **SB 247** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Total 0

Excused: None.

Total 0

SB 269 - House Amendments - Senator R. Brown moved House amendments to **SB 269** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 330 - House Amendments - Senator Moss moved House amendments to **SB 330** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: McGee.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 396 - House Amendments - Senator Story moved House amendments to **SB 396** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 449 - House Amendments - Senator Keane moved House amendments to **SB 449** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 9 - House Amendments - Senator Wanzenried moved House amendments to **SJR 9** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 15 - House Amendments - Senator Tutvedt moved House amendments to **SJR 15** be concurred in. Motion carried as follows:

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 305 - House Amendments - Senator Tutvedt moved House amendments to **SB 305 not be concurred in**.
Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 46

Nays: Erickson, Kaufmann, Squires, Zinke.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 310 - House Amendments - Senator Shockley moved House amendments to **SB 310 not be concurred in**.
Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Excused: None.
Total 0

SB 348 - House Amendments - Senator Essmann moved House amendments to **SB 348 not be concurred in**.
Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Erickson, Jackson, Keane, Laslovich, M. Tropila.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 404 - House Amendments - Senator Brueggeman moved House amendments to **SB 404 not be concurred in**.
Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 269 concurred in as follows:

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 318 concurred in as follows:

Yeas: Branae, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Ripley, Shockley, Mr. President.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 373 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Barkus, Esp, Ripley, Steinbeisser, Tutvedt.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

HB 380 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 45

Nays: Balyeat, R. Brown, Gallus, Larsen, Windy Boy.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 384 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Esp, Hinkle, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 416 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Barkus, McGee.
Total 2

Absent or not voting: None.
Total 0

Excused: None.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Total 0

HB 475 concurred in as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 35

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Essmann, Gallus, Gebhardt, Hinkle, Keane, McGee, Ripley, Steinbeisser, Zinke.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 630 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Balyeat, Black, Esp, Hinkle, Jackson, McGee.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 635 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Excused: None.
Total 0

HJR 15 concurred in as follows:

Yeas: Bales, Barkus, Branae, Brenden, T. Brown, Brueggeman, Cooney, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Larsen, Laslovich, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Windy Boy.
Total 27

Nays: Balyeat, Barrett, Black, R. Brown, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Jent, Keane, Laible, Lewis, McGee, Ripley, Steinbeisser, M. Tropila, Tutvedt, Zinke, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 57, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 58, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Total 0

Excused: None.

Total 0

SB 95, as amended by the House, passed as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Bales, Esp, Gebhardt, Steinbeisser.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 123, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 133, as amended by the House, passed as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Gebhardt, Hinkle, McGee, Perry, Ripley, Tutvedt.

Total 13

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 148, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 164, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 174, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 202, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Erickson, Esp, Kaufmann.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 299, as amended by the House, passed as follows:

Yeas: Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 40

Nays: Bales, Balyeat, Barkus, Black, Brenden, Esp, Gebhardt, Laslovich, McGee, Mr. President.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 351, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

Total 46

Nays: Barkus, Brenden, Hansen, Hinkle.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 371, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 39

Nays: Cooney, Jent, Juneau, Kaufmann, Keane, Moss, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 399, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-FOURTH LEGISLATIVE DAY - APRIL 3, 2009

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 33, introduced by Shockley, referred to State Administration.

MOTIONS

Senator Peterson moved to dissolve the Free Conference Committee on **SB 48** and appoint a regular conference committee. Motion carried. President Story appointed Senator Essmann (Chair), Senator Gillan, and Senator Tutvedt.

Senator R. Brown thanked the Pages for their work during the week of March 30 - April 3, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, April 6, 2009. Motion carried.

Senate adjourned at 3:19 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
April 6, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS:

4/2/2009

Correctly printed: **SJR 30, SJR 31, SJR 32, SR 18, SR 32, SR 33, HB 238, HB 306, HB 449, HB 480, HB 487, HB 562, HB 585.**

Correctly engrossed: **HB 42, HB 333, HB 583, HB 664, HB 670.**

Correctly enrolled: **SB 62, SB 71, SB 84, SB 126, SB 127, SB 193, SB 222, SB 227, SB 297, SB 308, SB 360, SB 367, SB 388, SB 405, SB 424, SB 441, SB 444, SB 463.**

Examined by the sponsor and found to be correct: **SB 9, SB 68, SB 136, SB 192, SB 200, SB 228, SB 235, SB 261, SB 268, SB 275, SB 276, SB 290, SB 294, SB 311, SB 392, SB 447, SJR 11, SJR 17, SJR 20, SJR 26, SR 15, SR 16, SR 17, SR 24, SR 26, SR 27.**

Delivered to the Secretary of State at 10:30 a.m., April 6, 2009: **SR 15, SR 16, SR 17, SR 24, SR 26, SR 27.**

Signed by the Speaker at 1:30 p.m., April 6, 2009: **SB 9, SB 68, SB 136, SB 192, SB 200, SB 228, SB 235, SB 261, SB 268, SB 275, SB 276, SB 290, SB 294, SB 311, SB 392, SB 447, SJR 11, SJR 17, SJR 20, SJR 26.**

Signed by the President at 7:45 p.m., April 3, 2009: **SB 9, SB 68, SB 136, SB 192, SB 200, SB 228, SB 235, SB 261, SB 268, SB 275, SB 276, SB 290, SB 294, SB 311, SB 392, SB 447, SJR 11, SJR 17, SJR 20, SJR 26, SR 15, SR 16, SR 17, SR 24, SR 26, SR 27.**

Signed by the Secretary of the Senate at 4:45 p.m., April 3, 2009: **SB 9, SB 68, SB 136, SB 192, SB 200, SB 228, SB 235, SB 261, SB 268, SB 275, SB 276, SB 290, SB 294, SB 311, SB 392, SB 447, SJR 11, SJR 17, SJR 20, SJR 26, SR 15, SR 16, SR 17, SR 24, SR 26, SR 27.**

Delivered to the Secretary of State at 3:24 p.m., April 14, 2009: **SR 11, SR 12, SR 13, SR 21, SR 22, SR 23, SR 28.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/6/2009

HB 2, be amended as follows:

1. Page A-1, line 5.

Strike: "7,026,904 7,339,860" [general fund FY 10 and FY 11]

Insert: "6,787,778 7,100,735" [general fund FY 10 and FY 11]

2. Page A-1.

Following: line 9

Insert: "a. Monitoring of Federal ARRA

97,713 53,592" [general fund FY 10 and FY 11]

3. Page A-1.

Following: line 14

Insert: "Legislative Services includes unspecified reductions in general fund money of \$239,126 in fiscal year 2010 and \$239,125 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

4. Page A-1.

Following: line 16

Insert: "If Senate Bill No. 460 is passed and approved, Monitoring of Federal ARRA is void."

5. Page A-1, line 19.

Strike: "1,751,585 1,762,560" [state special fund FY 10 and FY 11]

Insert: "1,376,585 1,387,560" [state special fund FY 10 and FY 11]

6. Page A-3, line 18.

Strike: "446,523 444,027" [general fund FY 10 and FY 11]

Insert: "437,570 435,075" [general fund FY 10 and FY 11]

7. Page A-4.

Following: line 5

Insert: "Administration includes unspecified reductions in general fund money of \$8,953 in fiscal year 2010 and \$8,952 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

8. Page A-4.

Following: line 18

Insert: "c. Forms Analyst (Restricted/OTO) 47,551 40,551"[state special fund FY 10 and FY 11]

9. Page A-5.

Following: line 7

Insert: "The item for Forms Analyst is restricted to funding for personal services to comply with provisions of 33-1-501, specifically to ensure that the commissioner makes a determination on submitted forms prior to triggering the automatic approval provision contained in 33-1-501(2)(b)."

10. Page A-6, line 2.

Strike: "10,742,100 10,715,603" [general fund in FY 2010 and FY 2011]

Insert: "9,907,343 9,932,846" [general fund in FY 2010 and FY 2011]

11. Page A-6.

Strike: line 16 through line 17 in their entirety

12. Page A-7, line 12.

Strike: "523,533 525,751" [general fund in FY 2010 and FY 2011]

Strike: "2,081,957 2,082,372" [state special fund in FY 2010 and FY 2011]

Insert: "530,311 532,541" [general fund in FY 2010 and FY 2011]

Insert: "2,075,179 2,075,582" [state special fund in FY 2010 and FY 2011]

13. Page A-8, line 22.

Strike: "2,179,495 2,180,396" [general fund FY 10 and FY 11]

Insert: "2,125,074 2,125,975" [general fund FY 10 and FY 11]

14. Page A-9.

Following: line 10

Insert: "f. Biomedical Research Grant (Restricted/OTO) 2,500,000" [state special fund FY10]

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

15. Page A-10.

Following: line 12

Insert: "Business Resources Division includes unspecified reductions in general fund money of \$54,421 in fiscal year 2010 and \$54,421 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

16. Page A-11, line 22.

Strike: "The appropriation" through "occur."

17. Page A-12, line 3.

Strike: "645,815 646,393" [general fund FY 10 and FY 11]

Insert: "529,240 529,818" [general fund FY 10 and FY 11]

18. Page A-13.

Following: line 12

Insert: "Centralized Services includes unspecified reductions in general fund money of \$116,575 in fiscal year 2010 and \$116,575 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

19. Page B-1, line 4.

Strike: "1,273,054" [state special fund FY 2011]

Insert: "1,275,963" [state special fund FY 2011]

Strike: "199,428,960 208,008,400" [federal special fund FY 10 and FY 11]

Insert: "199,038,960 207,258,400" [federal special fund FY 10 and FY 11]

20. Page B-1.

Strike: lines 11 through 16 in their entirety

Insert: "d. Food Banks (Restricted/OTO)
750,000 750,000" [federal special fund FY10 and FY11]

21. Page B-1.

Strike: lines 19 and 20

22. Page B-1, line 22.

Strike: "3,547,006 3,543,792" [general fund FY10 and FY11]

Insert: "3,696,357 3,697,624" [general fund FY10 and FY 11]

Strike: "476,567 480,940" [state special fund FY10 and FY11]

Insert: "327,216 327,108" [state special fund FY10 and FY11]

Strike: "7,497,513 7,486,331" [federal special fund FY10 and FY11]

Insert: "7,175,285 7,174,006" [federal special fund FY10 and
FY11]

23. Page B-2, line 16.

Strike: "7,864,357 7,870,058" [general fund FY10 and FY11]

Insert: "4,265,432 4,271,133" [general fund FY10 and FY11]

24. Page B-2.

Strike: lines 19 through 22 in their entirety

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

25. Page B-3, line 2.

Strike: "53,027,732 53,976,081" [general fund FY 10 and FY 11]

Insert: "52,999,747 53,863,403" [general fund FY 10 and FY 11]

Strike: "89,720,618 90,542,325" [federal special fund FY 10 and FY 11]

Insert: "89,798,560 90,655,003" [federal special fund FY 10 and FY 11]

26. Page B-3.

Strike: lines 5 through 8

Renumber: subsequent subsection

27. Page B-3, following line 10.

Insert: "c. Transitions Coordination (Restricted/OTO)

50,004 50,019" [general fund FY10 and FY11]

28. Page B-3, line 12.

Strike: "6,850,684 9,302,738 " [state special fund FY10 and FY11]

Insert: "6,884,927 9,337,599" [state special fund FY10 and FY11]

Strike: "285,805,382 304,548,552" [federal special fund FY10 and FY11]

Insert: "285,921,988 304,665,158 " [federal special fund FY10 and FY11]

29. Page B-3.

Strike: line 14 in its entirety

Insert: "20,938,284 21,617,910" [state special fund FY10 and FY11]

"45,163,837 46,363,178" [federal special fund FY10 and FY11]

30. Page B-3, line 22.

Strike: "0 0" [general fund FY10 and FY11]

Insert: "3,512,036 6,873,265" [general fund FY10 and FY11]

Strike: "15,747,922 17,160,882" [state special fund FY10 and FY11]

Insert: "0 0" [state special fund FY10 and FY11]

Strike: "33,998,926 36,574,938" [federal special fund FY10 and FY11]

Insert: "11,959,488 22,971,569" [federal special fund FY10 and
FY11]

31. Page B-4.

Strike: lines 1 through line 4

Renumber: subsequent subsection

32. Page B-4, line 8.

Strike: "53,675,132 53,811,343" [general fund FY10 and FY11]

Insert: "53,677,632 53,813,843" [general fund FY10 and FY11]

Strike: "29,944,880" [state special fund FY10]

Insert: "29,945,880" [state special fund FY10]

33. Page B-4.

Strike: line 11 through line 14

Renumber: subsequent subsections

34. Page B-4, line 18.

Strike: "1,500,000 2,000,000" [general fund FY10 and FY11]

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Insert: "1,349,996 1,849,981" [general fund FY10 and FY11]

Insert: "150,004 150,019" [state special fund FY10 and FY11]

35. Page B-4, following line 18.

Insert: "d. Resource Facilitation Service -- TBI (Restricted/OTO)
100,000 100,000" [general fund FY10 and FY11]

36. Page B-5.

Strike: lines 1 through line 2

Renumber: subsequent subsection

37. Page B-5, following line 8.

Strike: line 9

Insert: "If House Bill No. 645 does not include an appropriation for a provider rate increase for the Department of Public Health and Human Services of at least \$4,650,830 in general fund money, \$19,829 in state special revenue, and \$8,343,733 in federal special revenue in fiscal year 2010 and .at least \$10,333,165 in general fund money, \$41,231 in state special revenue, and \$16,111,921 in federal special revenue in fiscal year 2011, the following amounts are appropriated to the following programs for the 2011 biennium only.

<u>Program</u>	<u>Fiscal Year 2010</u>	<u>Fiscal Year 2011</u>
Human and Community Services Division -- Provider Rate Increase (Restricted/OTO)		
General fund	149,827	303,399
Child and Family Services Division -- Provider Rate Increase (Restricted/OTO)		
General fund	135,947	325,063
	129,576	Federal special revenue 54,412
Disability Services Division -- Provider Rate Increase (Restricted/OTO)		
General fund	104,800	248,866
State special revenue	1,200	2,412
Federal special revenue	109,613	256,792
Disability Services Division -- Direct Care Worker Wage Increase (Restricted/OTO)		
General fund	419,201	995,462
State special revenue	4,800	9,648
Federal special revenue	438,451	1,027,167
Health Resources Division -- Provider Rate Increase (Restricted/OTO)		
General fund	706,823	1,451,571
State special revenue	5,029	10,332
Federal special revenue	1,484,475	2,985,659
Senior and Long-Term Care Division -- Provider Rate Increase (Restricted/OTO)		
General fund	256,005	609,053
Federal special revenue	293,106	687,738
Senior and Long-Term Care Division -- Direct Care Worker Wage Increase (Restricted/OTO)		
General fund	564,756	1,353,108
Federal special revenue	1,172,422	2,750,951

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Addictive and Mental Disorders Division -- Provider Rate Increase (Restricted/OTO)			
General fund	313,700		644,079
State special revenue	4,955	10,284	
Federal special revenue	282,908		579,541

Provider Rate Increase may be used only to raise rates paid to providers. Funds in Direct Care Worker Wage Increase may be used only to raise direct care worker wages and related benefits through an increase in provider rates. Funds in Direct Care Worker Wage Increase may not be used to offset any other wage increase mandated by any other laws, contracts, or written agreements that will go into effect at the same time as or after implementation of the appropriation included in Direct Care Worker Wage Increase.

38. Page B-5, line 11.

Following: "by"

Strike: "\$162,322"

Insert: "\$13,200"

39. Page B-5, line 12.

Following: "and by"

Strike: "\$162,322"

Insert: "\$13,200"

40. Page B-5, line 12.

Following: "increased by"

Strike: "\$13,200"

Insert: "\$162,322"

41. Page B-5, line 13.

Following: "by"

Strike: "\$13,200"

Insert: "\$162,322"

42. Page B-5, line 18.

Following: "passage of"

Strike: "a bill"

Insert: "House Bill No. 676,"

43. Page B-6.

Following: line 1

Insert: "Technology Services Division includes a reduction in general fund money of \$3,598,925 each year of the biennium. The agency may allocate this reduction in funding among divisions when developing 2011 biennium operating plans."

44. Page B-6.

Strike: lines 5 through line 9

Insert: "If a bill is not passed and approved to remove the contraceptive prohibition under the children's health insurance program, then Health Resources Division is reduced by \$34,243 in state special revenue and \$116,606 in federal special revenue in fiscal year 2010 and by \$34,861 in state special revenue and \$116,606 in federal special revenue in fiscal year 2011."

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

45. Page B-6, following line 12.

Insert: "Healthy Montana Kids includes funding for 24 FTE, with 12 of the FTE funded for the 2011 biennium only. Healthy Montana Kids may be allocated among programs to support functions related to administration of the healthy Montana kids program."

46. Page C-3, line 8.

Strike: "356,582 357,254" [general fund FY10 and FY11]

Insert: "252,326 252,997" [general fund FY10 and FY11]

47. Page C-4.

Following: line 6

Insert: "f. KRY PLP Funding (Restricted/Biennial/OTO) 600,000" [state special fund FY10]

48. Page C-4.

Following: line 17

Insert: "Central Management Program includes a reduction in general fund money of \$104,256 in fiscal year 2010 and \$104,257 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

49. Page C-4.

Following: line 20

Insert: "KRY PLP Funding is limited to paying remediation claims for liable parties that did not contribute to the environmental damage but are liable due to property ownership."

50. Page C-6.

Following: line 9

Insert: "b. Rail Transit Authority 50,000 50,000"
[state special revenue FY10 and FY11]

51. Page C-6.

Following: line 19

Insert: "If Senate Bill No. 291 is not passed and approved, Rail Transit Authority is void."

52. Page C-6, line 22.

Strike: "71,794 71,557" [general fund FY10 and FY11]

Insert: "49,554 49,647" [general fund FY10 and FY11]

Strike: "150,000 150,000" [federal special fund FY10 and FY11]

Insert: "300,000 300,000" [federal special fund FY10 and FY11]

53. Page C-7.

Following: line 2

Insert: "b. Livestock Loss Mitigation Funding (Restricted/Biennial/OTO) 150,000"
[general fund FY10]

54. Page C-7, line 4.

Strike: "441,457 448,192" [general fund FY10 and FY11]

Insert: "468,310 475,057" [general fund FY10 and FY11]

Strike: "1,315,221 1,567,694" [state special fund FY10 and FY11]

Insert: "1,288,368 1,540,829" [state special fund FY10 and
FY11]

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

55. Page C-8, line 6.

Strike: "250,000 250,000" [general fund FY10 and FY11]

Insert: "134,291 133,361" [general fund FY10 and FY11]

Strike: "169,447 455,274" [state special fund FY10 and FY11]

Insert: "0 0" [state special fund FY10 and FY11]

56. Page C-9.

Following: line 5

Insert: The Centralized Services Program includes a reduction in general fund money of \$22,240 in fiscal year 2010 and \$22,240 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

57. Page C-12, line 11.

Strike: "585,225 585,444" [general fund FY10 and FY11]

Insert: "564,182 564,401" [general fund FY10 and FY11]

58. Page C-12, line 13.

Strike: "300,000 300,000" [state special fund FY10 and FY11]

Insert: "250,000 250,000" [state special fund FY10 and FY11]

59. Page C-12.

Following: line 16

Insert: "Agricultural Development Division includes a reduction in general fund money of \$21,043 in fiscal year 2010 and \$21,043 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

If Senate Bill No. 291 is not passed and approved, the state special revenue appropriation for Growth Through Agriculture Grants is increased by \$50,000 in fiscal year 2010 and by \$50,000 in fiscal year 2011."

60. Page D-1, line 15.

Strike: "24,126,850 24,716,633" [general fund FY 2010 and FY 2011]

Insert: "23,415,402 24,005,185" [general fund FY 2010 and FY 2011]

61. Page D-2, line 1.

Following: "FOR"

Strike: remainder of line 1 through "\$8,925,317"

Insert: "District Court Operations is reduced by \$560,327"

62. Page D-2.

Following: line 2

Insert: "District Court Operations includes a reduction in general fund money of \$711,448 each year of the biennium. The branch may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

63. Page D-2, line 5.

Strike: "1,489,894 1,492,414" [general fund FY 2010 and FY 2011]

Insert: "1,458,529 1,465,949" [general fund FY 2010 and FY 2011]

Strike: "13,778 13,757" [state special fund FY 2010 and FY 2011]

Insert: "14,014 14,063" [state special fund FY 2010 and FY 2011]

Strike: "513,316 513,270" [federal special fund FY 2010 and FY 2011]

Insert: "520,172 522,156" [federal special fund FY 2010 and FY 2011]

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

64. Page D-2.

Following: line 16

Insert: "Justice System Support Service includes a reduction in general fund money of \$47,915 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

65. Page D-2, line 21.

Strike: "5,425,392 5,496,083" [general fund FY 2010 and FY 2011]

Insert: "4,903,123 4,973,814" [general fund FY 2010 and FY 2011]

66. Page D-4.

Following: line 14

Insert: "Legal Services Division includes a reduction in general fund money of \$522,269 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

67. Page D-5, line 12.

Strike: "19,340,847 19,196,683" [general fund FY 2010 and FY 2011]

Insert: "18,688,030 18,635,797" [general fund FY 2010 and FY 2011]

Strike: "43,456 43,456" [state special fund FY 2010 and FY 2011]

Insert: "293,456 293,456 " [state special fund FY 2010 and FY 2011]

68. Page D-5, line 14.

Strike: "870,199" [general fund FY 2011]

Insert: "875,210" [general fund FY 2011]

69. Page D-5.

Following: line 17

Insert: "Office of State Public Defender includes a reduction in general fund money of \$402,817 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

70. Page D-5.

Following: line 17

Insert: "Office of State Public Defender includes a reduction of \$250,000 in general fund money and an increase of \$250,000 in state special revenue in fiscal year 2010 and a reduction of \$250,000 in general fund money and an increase of \$250,000 in state special revenue in fiscal year 2011 that is contingent upon passage and approval of Senate Bill No. 263. If Senate Bill No. 263 is not passed and approved, general fund money for fiscal year 2010 and fiscal year 2011 is increased by \$250,000 each year and state special revenue for fiscal year 2010 and fiscal year 2011 is reduced by \$250,000 each year."

71. Page D-6, line 6.

Strike: "58,397,980 61,799,854" [general fund FY 2010 and FY 2011]

Insert: "54,957,327 58,359,201" [general fund FY 2010 and FY 2011]

72. Page D-7.

Following: line 7

Insert: "Community Corrections includes a reduction in general fund money of \$3,440,653 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

73. Page D-7, line 12.

Following: "increased"

Strike: remainder of line 12 through line 13

Insert: "by \$18,750 in fiscal year 2010 and \$18,750 in fiscal year 2011."

74. Page E-1, line 4.

Strike: "9,279,343 9,334,442" [general fund FY10 FY11]

Insert: "9,093,505 9,148,604" [general fund FY10 FY11]

Strike: "15,155,541 15,443,258" [federal special fund FY 10 and FY 11]

Insert: "16,787,287 21,188,076" [federal special fund FY 10 and FY 11]

75. Page E-1, line 8.

Strike: "134,529,444 137,354,444" [federal special fund FY10 FY11]

Insert: "138,029,444 142,354,444" [federal special fund FY10 FY11]

76. Page E-1, line 10.

Strike: "539,211,748 553,006,533" [general fund FY10 FY11]

Insert: "528,979,895 529,951,539" [general fund FY10 FY11]

77. Page E-2.

Strike: line 16 through 17

Insert: "OPI Administration includes a reduction in general fund money of \$185,838 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

BASE Aid reflects an increase in the basic entitlement and in the per-ANB entitlements of 1% in fiscal year 2010 and 1% in fiscal year 2011."

78. Page E-3, line 4.

Strike: "225,710 228,257" [general fund FY10 FY11]

Insert: "221,171 223,717" [general fund FY10 FY11]

79. Page E-3.

Following: line 7

Insert: "Administration includes a reduction in general fund money of \$4,540 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

80. Page E-3, line 18.

Strike: "3,634,563 3,623,135" [general fund FY10 FY11]

Insert: "3,515,682 3,504,253" [general fund FY10 FY11]

81. Page E-3.

Following: line 21

Insert: "Education includes a reduction in general fund money of \$118,881 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

82. Page E-4, line 2.

Strike: "468,351 466,129" [general fund FY10 FY11]

Insert: "458,925 456,702" [general fund FY10 FY11]

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

83. Page E-4.

Following: line 9

Insert: "Promotion of the Arts includes a reduction in general fund money of \$9,427 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

84. Page E-4, line 12.

Strike: "2,552,383 2,766,567" [general fund FY10 FY11]

Insert: "2,496,928 2,711,111" [general fund FY10 FY11]

85. Page E-4.

Following: line 19

Insert: "Statewide Library Resources includes a reduction in general fund money of \$55,456 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

86. Page E-5, line 3.

Strike: "1,142,087 1,157,675" [general fund FY10 FY11]

Insert: "1,087,870 1,103,458" [general fund FY10 FY11]

87. Page E-5.

Following: line 18

Strike: line 19 through line 21

Insert: "Administration Program includes a reduction in general fund money of \$54,217 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

88. Page E-6, line 20.

Strike: "131,994,990 134,306,612" [general fund FY10 and FY11]

Insert: "128,382,795 130,694,418" [general fund FY10 and FY11]

89. Page E-7.

Following: line 4

Insert: "d. Extension Service -- Brucellosis Action Plan 285,157 571,913" [general fund FY10 and FY11]

Renumber: subsequent subsections

90. Page E-8, line 13.

Following: "If"

Strike: "HB"

Insert: "House Bill No."

91. Page E-9.

Following: line 21

Insert: "OCHE--Appropriation Distribution Transfers includes a reduction in general fund money of \$3,612,195 in fiscal year 2010 and \$3,612,194 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

And, as amended, be concurred in. Report adopted.

JUDICIARY (Perry, Chairman):

4/6/2009

HB 130, be concurred in. Report adopted.

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

HB 131, be concurred in. Report adopted.

HB 132, be concurred in. Report adopted.

HB 634, be amended as follows:

1. Page 1, line 18.

Following: "chapter 21."

Insert: "A county may choose to not use the services."

2. Page 2, line 12.

Following: "section"

Insert: "or if a county chooses to not use the service"

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

4/3/2009

SR 23, be adopted. Report adopted.

HB 578, be concurred in. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman):

4/3/2009

SR 28, introduced resolution, be amended as follows:

1. Page 1, line 28.

Strike: line 28

And, as amended, be adopted. Report adopted.

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

4/6/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 5:00 p.m., Friday, April 3, 2009:

TITLE

NAME

Pages:

Reid Fleming, Fort Shaw
Taylor Floreen, Butte
Jennifer Lynch, Butte
Reva Stewart, Garryowen
Eric Sell, Harlowton
Bralyn Joubert, Columbia Falls

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, April 6, 2009:

TITLE

NAME

Pages:

Hannah Goodman, Helena
Kiah Marie Abbey, Billings
Robbyn L. Reukauf, Terry
Madison Wittich, Bozeman
Joe J. Newman, Butte
Brinna L. Boettger, Lewistown

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Report Adopted.

MESSAGES FROM THE GOVERNOR

April 3, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 20** sponsored by Senator Jent, **Senate Bill 82** sponsored by Senator Steinbeisser, **Senate Bill 197** sponsored by Senator Laslovich, **Senate Bill 319** sponsored by Senator Keane, **Senate Bill 325** sponsored by Senator Perry, **Senate Bill 368** sponsored by Senator Erickson, and **Senate Bill 432** sponsored by Senator R. Brown on April 3, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

April 3, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 55, "**AN ACT REQUIRING THE YOUTH COURT TO IMPOSE RESTRICTIONS ON A DELINQUENT YOUTH'S RESIDENCY IF THE YOUTH HAS BEEN ADJUDICATED FOR A SEXUAL OFFENSE AND HAS BEEN DETERMINED TO BE A LEVEL 3 SEXUAL OFFENDER; REQUIRING NOTIFICATION TO SCHOOL DISTRICTS; AMENDING SECTION 41-5-1513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE**" for the following reasons.

My proposed amendment would amend another section of law, § 41-5-215, MCA, which currently requires the youth court to notify school districts of a youth's suspected drug use or criminal activity, so that the amendments in this bill concerning notice to schools coordinate with the current law.

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

I have discussed my proposed amendment with the sponsor of the bill, Rep. Hawk, and with the Office of the Court Administrator, which both support the amendment.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 55

Amendments to House Bill No. 55
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:52am)

1. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 41-5-215 AND"

Following: line 11

Insert: "**Section 1.** Section 41-5-215, MCA, is amended to read:

"41-5-215. Youth court and department records -- notification of school. (1) Formal youth court records, including reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, and orders and decrees on file with the clerk of court are public records and are open to public inspection until the records are sealed under 41-5-216.

(2) Social, medical, and psychological records, youth assessment materials, predispositional studies, and supervision records of probationers are open only to the following:

(a) the youth court and its professional staff;
(b) representatives of any agency providing supervision and having legal custody of a youth;
(c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;

(d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon the party;

(e) the county attorney;

(f) the youth who is the subject of the report or record, after emancipation or reaching the age of majority;

(g) a member of a county interdisciplinary child information team formed under 52-2-211 who is not listed in this subsection (2);

(h) members of a local interagency staffing group provided for in 52-2-203;

(i) persons allowed access to the reports referred to under 45-5-624(7); and

(j) persons allowed access under 42-3-203.

(3) (a) Notwithstanding the requirements of 20-5-321(1)(d) or (1)(e) and subject to the provisions of subsection (3)(b) of this section, the youth court shall notify the school district that the youth presently attends or the school district that the youth has applied to attend of a youth's suspected drug use or criminal activity if after an investigation has been completed:

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

- (i) the youth has admitted the allegation or a petition has been filed with the youth court; and
- (ii) a juvenile probation officer has reason to believe that a youth is currently involved with drug use or other criminal activity that has a bearing on the safety of children.
- (b) Notification under subsection (3)(a) may not be given for status offenses.
- (c) In addition to the notice requirements in subsection (3)(a), the youth court shall provide notice to the superintendent of a school district for a level 3 sexual offender as provided in 41-5-1513(3).
- ~~(c)(d)~~ A school district may not refuse to accept the student if refusal violates the federal Individuals With Disabilities Education Act or the federal Americans With Disabilities Act of 1990.
- ~~(d)(e)~~ The administrative officials of the school district may enforce school disciplinary procedures that existed at the time of the admission or adjudication. The information may not be further disclosed and may not be made part of the student's permanent records.
- (4) In all cases, a victim is entitled to all information concerning the identity and disposition of the youth, as provided in 41-5-1416.
- (5) The school district may disclose, without consent, personally identifiable information from an education record of a pupil to the youth court and law enforcement authorities pertaining to violations of the Montana Youth Court Act or criminal laws by the pupil. The youth court or law enforcement authorities receiving the information shall certify in writing to the school district that the information will not be disclosed to any other party except as provided under state law without the prior consent of the parent or guardian of the pupil.
- (6) Any part of records information secured from records listed in subsection (2), when presented to and used by the court in a proceeding under this chapter, must also be made available to the counsel for the parties to the proceedings."

{Internal References to 41-5-215:

*41-5-216x 41-5-216x 41-5-216x 41-5-221x
42-3-203x 52-2-211x }"*

Renumber: subsequent sections

MOTIONS

Senator Peterson moved that the Senate appoint a Conference Committee on **SB 305** and request that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Tutvedt (Chair), Senator Esp, and Senator Laslovich.

Senator Peterson moved that the Senate appoint a Conference Committee on **SB 310** and that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Shockley (Chair), Senator Tutvedt, and Senator Laslovich.

Senator Peterson moved that the Senate appoint a Free Conference Committee on **SB 348** and that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Essmann (Chair), Senator Williams, and Senator Black.

Senator Peterson moved that the Senate appoint a Conference Committee on **SB 404** and that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Brueggeman (Chair), Senator Barkus, and Senator Jent.

Senator Peterson moved that the Senate appoint a Conference Committee on **HB 228** and that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator McGee (Chair), Senator Shockley, and Senator Jent.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolutions were introduced, read first time, and referred to committees:

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

SR 34, introduced by Shockley, referred to State Administration.

SR 35, introduced by Shockley, referred to State Administration.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 38, introduced by Stewart-Peregoy, Sands, Henry, Windy Boy, Augare, Pease-Lopez, Ankney, referred to Public Health, Welfare and Safety.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Jent in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 478 - Senator Jackson moved **HB 478** be concurred in.

HB 478 - Senator Jackson moved **HB 478**, second reading copy, be amended as follows:

1. Page 5.

Following: line 22

Insert: "COORDINATION SECTION. **Section 9. Coordination instruction.** If Senate Bill No. 38 is not passed and approved, then [this act] is void."

Renumber: subsequent section

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 478 - Senator Jackson moved **HB 478**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley,

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 653 - Senator Erickson moved **HB 653** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 30 - Senator Keane moved **HJR 30** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 46

Nays: Brenden, Esp, McGee, Mr. President.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 8 - House Amendments - Senator Hansen moved House amendments to **SB 8** be concurred in. Motion carried as follows:

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 18 - Governor's Amendments - Senator Wanzenried moved Governor's amendments to **SB 18** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 32 - House Amendments - Senator Barkus moved House amendments to **SB 32** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Barrett, Laslovich.
Total 2

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Excused: None.
Total 0

SB 117 - Governor's Amendments - Senator Wanzenried moved Governor's amendments to **SB 117** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 281 - House Amendments - Senator Shockley moved House amendments to **SB 281** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 46

Nays: Laslovich, McGee, Murphy, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 286 - House Amendments - Senator T. Brown moved House amendments to **SB 286** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Balyeat.

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 349 - House Amendments - Senator Tutvedt moved House amendments to **SB 349** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 442 - House Amendments - Senator Laslovich moved House amendments to **SB 442** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hinkle, Jackson, Jent, Juneau, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 43

Nays: Cooney, Erickson, Hamlett, Hawks, Kaufmann, Keane, Windy Boy.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 457 - House Amendments - Senator Branae moved House amendments to **SB 457 not be concurred in**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley,

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 306 - House Amendments - Senator Esp moved House amendments to **SB 306 not be concurred in.** Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Jent moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SJR 30 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Erickson, Esp, Keane.

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 31 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 32 passed as follows:

Yeas: Bales, Balyeat, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 45

Nays: Barkus, Barrett, McGee, Steinbeisser, Zinke.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 449 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Nays: Balyeat, Hinkle.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 480 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 46

Nays: Erickson, Keane, Zinke, Mr. President.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 23, conference committee report, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 26, as amended by the House, passed as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires,

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat, Barkus, Hinkle.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 96, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 104, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Essmann, Gallus, Larsen.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 113, as amended by the House, passed as follows:

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 158, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.
Total 41

Nays: Balyeat, R. Brown, Esp, Essmann, Gebhardt, Laslovich, Squires, Windy Boy, Mr. President.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 171, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 41

Nays: R. Brown, Cooney, Erickson, Gallus, Kaufmann, Larsen, Moss, Shockley, Windy Boy.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 247, as amended by the House, passed as follows:

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, R. Brown, Esp, Keane, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 269, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 330, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 43

Nays: Balyeat, Esp, Essmann, McGee, Shockley, Tutvedt, Mr. President.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 396, as amended by the House, passed as follows:

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 449, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 9, as amended by the House, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

SJR 15, as amended by the House, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 45

Nays: Erickson, Esp, Kaufmann, Keane, Windy Boy.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

SR 18 - Senator Steinbeisser moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 18, and that the ayes and nays be spread upon the journal.

As members of the Board of Livestock--Janice French, Hobson; Brett DeBruycker, Dutton; Jeffery Lewis, Corvallis; John H. Lehfeldt, Lavina.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 19 - Senator Wanzenried moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 19, and that the ayes and nays be spread upon the journal.

As Director of the Department of Environmental Quality--Richard Opper, Helena

Yeas: Bales, Balyeat, Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires,

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Barrett, Brenden, Hinkle.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 20 - Senator Kauffman moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 20, and that the ayes and nays be spread upon the journal.

As Director of the Department of Natural Resources and Conservation--Mary Sexton, Helena

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

FIRST READING AND COMMITMENT OF BILLS

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 39, introduced by Brueggeman, Hinkle, Wanzenried, Gillan, Laslovich, Cooney, Brueggeman, referred to Highways and Transportation.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

SENATE JOURNAL
SEVENTY-FIFTH LEGISLATIVE DAY - APRIL 6, 2009

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, April 7, 2009. Motion carried.

Senate adjourned at 2:14 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
April 7, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Esp, excused. Quorum present.

BILLS AND JOURNALS:

4/7/2009

Correctly printed: **SJR 38, SJR 39, SR 23, SR 34, SR 35, HB 130, HB 131, HB 132, HB 578, HB 653, HJR 30.**

Correctly engrossed: **SJR 28, HB 2, HB 478, HB 634.**

Correctly enrolled: **SB 57, SB 58, SB 95, SB 123, SB 133, SB 148, SB 151, SB 156, SB 164, SB 174, SB 202, SB 299, SB 371, SB 399.**

Delivered to the Governor for approval at 11:07 a.m., April 7, 2009: **SB 9, SB 68, SB 136, SB 192, SB 200, SB 228, SB 235, SB 261, SB 268, SB 275, SB 276, SB 290, SB 294, SB 311, SB 392, SB 447.**

Examined by the sponsor and found to be correct: **SB 62, SB 71, SB 76, SB 84, SB 124, SB 126, SB 127, SB 193, SB 222, SB 227, SB 297, SB 308, SB 360, SB 367, SB 375, SB 388, SB 400, SB 401, SB 405, SB 424, SB 441, SB 444, SB 463.**

Delivered to the Secretary of State at 3:06 p.m., April 6, 2009: **SJR 11, SJR 17, SJR 20, SJR 26.**

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):

4/7/2009

SJR 33, do pass. Report adopted.

SR 21, be adopted. Report adopted.

SR 22, be adopted. Report adopted.

HB 598, be amended as follows:

1. Page 1, line 13.

Strike: "employments exempted"

Insert: "exemptions -- elections -- notice"

2. Page 1, line 20.

Strike: "employments"

3. Page 4, line 8.

Following: "(z)"

Strike: "employment of"

Strike: "CONTRACT"

Following: "MUSICIAN"

Insert: "performing under a written contract"

And, as amended, be concurred in. Report adopted.

HB 656, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

4/6/2009

SJR 34, do pass. Report adopted.

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

HB 629, be concurred in. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):
HB 8, be amended as follows:

4/7/2009

1. Page 1, line 27.
Strike: "\$2,000,000"
Insert: "\$8,000,000"

2. Page 3, line 2.
Strike: "\$13,158,795"
Insert: "\$20,058,795"
Strike: "\$7,973,636"
Insert: "\$13,973,636"

3. Page 3, line 4.
Strike: "\$1,716,364"
Insert: "\$2,616,364"

And, as amended, be concurred in. Report adopted.

HB 9, be amended as follows:

1. Page 1, line 23.
Strike: "\$839,400"
Insert: "\$885,400"

2. Page 4, line 29.
Following: line 28
Insert: "1471 Montana Repertory Theatre \$20,000
1476 North West History Museum-Central School \$20,000
---- Great Falls History Museum \$2,000"

3. Page 5, line 9.
Following: line 8
Insert: "1500 Old Trail Museum \$4,000"

And, as amended, be concurred in. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman):
SJR 36, do pass. Report adopted.
SR 11, be adopted. Report adopted.
SR 12, be adopted. Report adopted.
SR 13, be adopted. Report adopted.
SR 14, be not adopted. Report adopted.
HB 575, be concurred in. Report adopted.
HB 669, be amended as follows:

4/7/2009

1. Page 1, line 19.
Following: "(3)"

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Insert: "(a)"

2. Page 1, line 21.

Following: the first "account"

Strike: "and any interest that is generated from a loan repayment"

3. Page 1.

Following: line 22

Insert: "(b) Loan repayments and any interest generated from loan repayments may be used as revolving loans for the wood products industry or for primary sector businesses statewide and are not subject to the provisions of this section.

(4) In any biennium, up to 30% of the funds in the distressed wood products industry revolving loan account, not to exceed \$2.7 million, may be used as matching funds to secure additional federal money. Except as provided in subsection (3)(b), federal funds must be deposited in a federal special revenue account and used for loans in accordance with [sections 1 through 4]."

Renumber: subsequent subsections

4. Page 1, line 24.

Following: "industry;"

Insert: "or"

5. Page 1, line 26 through page 2, line 1.

Strike: "; and" on page 1, line 26 through "products." on page 2, line 1

Insert: "(b) Loans made pursuant to this subsection (5) must be made to individuals or small businesses that are part of the critical, primary wood processing infrastructure and have suffered economic hardships."

6. Page 2, line 6.

Strike: "marketing or advertising"

Insert: "working capital"

7. Page 2, line 15.

Strike: "shall"

Insert: "may"

8. Page 2, line 16.

Following: "including"

Insert: "demonstrated need,"

9. Page 2, line 19 through line 20.

Strike: subsection (b) in its entirety

Renumber: subsequent subsections

10. Page 2, line 23 through line 24.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

11. Page 2, line 26 through line 27.

Strike: "seek" on line 26 through "default" on line 27

Insert: "determine terms and conditions of loans, including recovery of funds in the event of default"

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

12. Page 3, line 3.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

13. Page 3.

Following: line 8

Insert: "(3) In accordance with 5-11-210, the department shall provide a status report of the distressed wood products industry loan account to the economic affairs interim committee provided for in 5-5-223."

14. Page 3, line 11.

Following: "account"

Insert: "and the related federal special revenue fund"

15. Page 4.

Following: line 22

Insert: "COORDINATION SECTION. **Section 8. Coordination instruction.** If [this act] and House Bill No. 645 are both passed and approved, then [section 25] of House Bill No. 645 relating to the distressed wood products industry recovery program is void and the appropriation for the distressed wood products industry recovery program provided for in House Bill No. 645 must be deposited in the distressed wood products industry revolving loan account provided for in [this act]."

Renumber: subsequent section

And, as amended, be concurred in. Report adopted.

HB 674, be concurred in. Report adopted.

HB 678, be amended as follows:

1. Page 5, line 20.

Strike: "10"

Insert: "5"

2. Page 7, line 4.

Following: "(7)"

Strike: "The"

Insert: "(a) Except as provided in subsection (7)(b), the"

3. Page 7, line 8.

Strike: "OR" through "[SECTION 8]"

4. Page 7.

Following: line 8

Insert: "(b) If the applicant and the department mutually agree or the applicant submits documentation to the department showing that a public meeting will not be required pursuant to subsection (9), the department shall inform the applicant within 30 days of the notice of a complete application as to whether or not the application is acceptable pursuant to subsection (10)."

5. Page 7, line 18.

Following: "owners"

Insert: " or 10 property owners, whichever is greater,"

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

6. Page 8, line 21 through line 24.

Strike: ":" on line 21 through "(b)" on line 24

7. Page 9.

Following: line 21

Insert: "COORDINATION SECTION. **Section 11. Coordination instruction.** If Senate Bill No. 370 and [this act] are both passed and approved and both contain a section that amends 15-38-113, then the section amending 15-38-113 in [this act] is void."

Insert: "COORDINATION SECTION. **Section 12. Coordination instruction.** If Senate Bill No. 370 and [this act] are both passed and approved and both contain a section that amends 82-4-405, then the section amending 82-4-405 in Senate Bill No. 370 is void."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):
SJR 35, do pass. Report adopted.

4/7/2009

STATE ADMINISTRATION (Shockley, Chairman):
SR 33, be adopted. Preliminary report adopted.
SR 34, be adopted. Preliminary report adopted.

4/6/2009

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 73**
Report No. 1, April 6, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 73** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 73** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Hawks, Chairman
Hinkle
Zinke

For the House:

Pomnichowski, Chairman
Sonju
Vance

FREE CONFERENCE COMMITTEE
on **Senate Bill 108**
Report No. 1, April 7, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 108** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 108** (reference copy -- salmon) be amended as follows:

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

1. Title, page 1, lines 7 and 8.

Following: "PROCEEDINGS" on line 7

Strike: "EXCEPT IN CERTAIN CIRCUMSTANCES"

2. Title, page 1, lines 12 and 13.

Following: "PLANS" on line 12

Strike: "EXCEPT IN CERTAIN CIRCUMSTANCES"

3. Page 2, lines 18 and 19.

Following: "SERVICE" on line 18

Strike: "unless" on line 18 through "dishonorable" on line 19

4. Page 5, lines 11 and 12.

Following: "child" on line 11

Strike: "unless" on line 11 through "dishonorable" on line 12

5. Page 7, lines 25 and 26.

Following: "SERVICE" on line 25

Strike: "unless" on line 25 through "dishonorable" on line 26

For the Senate:

McGee, Chairman

Jent

Zinke

For the House:

Menahan, Chairman

Kerns

Kottel

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 228**
Report No. 1, April 7, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 228** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 228** (reference copy -- salmon) be amended as follows:

1. Title, line 9.

Strike: "45-8-328,"

2. Page 8, line 24 through page 9, line 10.

Strike: section 8 in its entirety

Renumber: subsequent sections

3. Page 10, line 8.

Strike: "10"

Insert: "9"

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

4. Page 10, line 9.

Strike: "10"

Insert: "9"

For the House:

Menahan

Kerns

Kottel

For the Senate:

McGee, Chairman

Shockley

Jent

FREE CONFERENCE COMMITTEE
on **House Bill 622**
Report No. 1, April 6, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 622** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 622** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 7.

Following: "CHARITY"

Insert: "OR DEPOSITED TO A NEW CONSTITUENT SERVICES ACCOUNT"

2. Page 2, line 9.

Following: "2009"

Insert: ", or deposit the money by July 1, 2009, into a constituent services account established after May 14, 2007, and shall close the old account"

3. Page 2, line 11.

Strike: "DONATED pursuant"

Insert: "subject"

For the House:

Dickenson

Himmelberger

MacLaren

Sands

For the Senate:

R. Brown, Chairman

Brenden

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/6/2009

HB 190, introduced by Van Dyk

HB 218, introduced by Menahan

HB 409, introduced by Pomnichowski

HB 420, introduced by Reinhart

HB 443, introduced by Menahan

HB 546, introduced by Pomnichowski

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

HB 486 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 486:**
4/6/2009

Representative Ebinger
Representative MacLaren
Representative Reinhart (Vice Chair)
Representative Vance

HB 602 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **HB 602:**
4/7/2009

Representative D. Brown
Representative Cohenour (Vice Chair)
Representative French
Representative Washburn

Senate bills concurred in and returned to the Senate: 4/6/2009

SB 22, introduced by Murphy
SB 226, introduced by Hawks
SB 280, introduced by Gebhardt
SB 292, introduced by Gebhardt
SB 353, introduced by Black
SB 361, introduced by Ripley
SB 426, introduced by Laslovich
SB 446, introduced by Story

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments: 4/6/2009

SB 231, introduced by Laible
SB 430, introduced by Hamlett

SB 305 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 305:**
4/6/2009

Representative Berry
Representative Ebinger
Representative Reinhart (Vice Chair)
Representative Stahl

SB 310 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 310:**
4/6/2009

Representative Ingraham
Representative Reichner
Representative Reinhart (Vice Chair)
Representative Sands

SB 348 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 348:**

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

4/7/2009

Representative Himmelberger
Representative Malek
Representative Mendenhall
Representative Wilmer (Vice Chair)

SB 404 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 404**:

4/6/2009

Representative Cohenour
Representative Hendrick
Representative Milburn
Representative Van Dyk (Vice Chair)

SB 108 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Free Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 108**:

4/6/2009

Representative Kerns
Representative Kottel
Representative Menahan (Vice Chair)
Representative Stoker

MOTIONS

SB 306 - Senator Peterson moved that the Senate appoint a Conference Committee on **SB 306**, and that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Esp (Chair), Senator Barkus, and Senator Erickson.

SB 457 - Senator Peterson moved that the Senate appoint a Conference Committee on **SB 457**, and that the House of Representatives appoint a like committee. Motion carried. Motion carried. President Story appointed Senator Branae (Chair), Senator Esp, and Senator Black.

HB 486 - Senator Peterson moved that the Senate appoint a Conference Committee on **SB 486**, and that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Gillan (Chair), Senator Esp, and Senator Tutvedt.

HB 602 - Senator Peterson moved that the Senate appoint a Conference Committee on **HB 602**, and that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Shockley (Chair), Senator Brenden, and Senator Tropila.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 653 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 30 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 43

Nays: Balyeat, Brenden, Erickson, Esp, Hinkle, McGee, Mr. President.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 8, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 18, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann,

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 32, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 117, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Gallus.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

SB 281, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 43

Nays: Balyeat, Gallus, Gebhardt, Kaufmann, Murphy, Steinbeisser, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 286, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, R. Brown, Gallus.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 349, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

SB 442, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat, Keane.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Ripley in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 79 - Senator Juneau moved **SB 79** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 427 - Senator Laslovich moved **House Amendments to SB 427 not be concurred in**. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Boy, Zinke, Mr. President.
Total 49

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 238 - Senator Zinke moved **HB 238** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 41

Nays: Brenden, Esp, Gallus, Keane, McGee, Murphy, Steinbeisser, Tutvedt, Mr. President.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 306 - Senator Brueggeman moved **HB 306** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Hinkle, Jackson.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 487 - Senator Tutvedt moved **HB 487** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee,

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 39

Nays: Branae, Cooney, Erickson, Esp, Juneau, Kaufmann, Keane, Moss, Schmidt, M. Tropila, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 562 - Senator T. Brown moved **HB 562** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Gebhardt.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 585 - Senator Barkus moved **HB 585** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Erickson, Hawks, Juneau, Kaufmann, Larsen, McGee, Wanzenried.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 670 - Senator Gebhardt moved **HB 670** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss,

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 171 - Governor's Amendments - Senator R. Brown moved Governor's amendments to **HB 171** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Brenden, R. Brown, Esp, McGee, Shockley, Squires.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Ripley moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator J. Tropila moved to change his vote on **SB 349** from no to yes. Motion carried.

SB 427 - Senator Peterson moved that the Senate appoint a Free Conference Committee on **SB 427**, and that the House of Representatives appoint a like committee. Motion carried. President Story appointed Senator Laslovich (Chair), Senator McGee, and Senator Story.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 3 - Senator Bales moved **HB 3** be concurred in.

HB 3 - Senator Ripley moved **HB 3**, second reading copy, be amended as follows:

1. Page 1, line 22

Strike: "\$2,375,784"

Insert: "\$1,697,344"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Zinke, Mr. President.

Total 35

Nays: Branae, Cooney, Erickson, Hansen, Hawks, Juneau, Kaufmann, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 3 - Senator Bales moved **HB 3**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hawks, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 31

Nays: Balyeat, Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 4 - Senator Lewis moved **HB 4** be concurred in.

HB 4 - Senator Lewis moved **HB 4**, second reading copy, be amended as follows:

1. Page 9, line 9 through line 10.

Strike: line 9 through line 10 in their entirety

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Following: line 11

Insert: "Additional unemployment insurance administration and emergency unemployment compensation grant FY 2009 \$907,025 Federal"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Hamlett, Juneau, J. Tropila, M. Tropila, Wanzenried.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 4 - Senator Lewis moved **HB 4**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Balyeat, Essmann.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 6 - Senator Barkus moved **HB 6** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, R. Brown, Hinkle, Juneau.
Total 4

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Total 0

Excused: None.

Total 0

HB 7 - Senator Barkus moved **HB 7** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Balyeat, R. Brown, Hinkle, Jackson, Juneau, Tutvedt.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 123 - Senator Brueggeman moved **HB 123** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 44

Nays: Balyeat, Gebhardt, Hinkle, Shockley, Steinbeisser, Windy Boy.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 583 - Senator J. Peterson moved consideration of **SB H83** be passed for the day. Motion carried.

HB 664 - Senator T. Brown moved **HB 664** do pass.

HB 664 - Senator T. Brown moved **HB 664**, second reading copy, be amended as follows:

1. Page 1, line 17 through line 18.

Following: "adopts rules" on line 17

Insert: "related to milk pricing and transportation rates that are"

Following: "milk control bureau"

Strike: "within the" on line 17 through "livestock" on line 18

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.
Total 46

Nays: Balyeat, R. Brown, Wanzenried, Windy Boy.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 664 - Senator T. Brown moved **HB 664**, as amended, do pass. Motion **failed** as follows:

Yeas: Barrett, T. Brown, Brueggeman, Curtiss, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Jackson, Jent, Larsen, Lewis, McGee, Murphy, Ripley, Steinbeisser, Mr. President.
Total 18

Nays: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, Cooney, Erickson, Esp, Essmann, Gillan, Hinkle, Juneau, Kaufmann, Keane, Laible, Laslovich, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 32

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 664 - Senator J. Peterson moved **HB 664** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Barrett, Branae, T. Brown, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Larsen, Murphy, Ripley, Steinbeisser.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-SIXTH LEGISLATIVE DAY - APRIL 7, 2009

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 36, introduced by Gillan, Kaufmann, Branae, Williams, Hamlett, Erickson, referred to Taxation.

SPECIAL ORDERS OF THE DAY

SR 32 - Senator Brueggeman moved that the nomination by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 32, and that the ayes and nays be spread upon the journal.

Director of the Department of Transportation--Jim Lynch, Kalispell

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Brenden, T. Brown, Gebhardt, Murphy.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 12:30 p.m., Wednesday, April 8, 2009. Motion carried.

Senate adjourned at 2:40 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
April 8, 2009

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gallus, and Hansen, excused. Quorum present.

BILLS AND JOURNALS:

4/8/2009

Correctly printed: **SJR 33, SJR 34, SJR 35, SJR 36, SR 11, SR 12, SR 13, SR 14, SR 21, SR 22, SR 36, HB 6, HB 7, HB 123, HB 238, HB 306, HB 487, HB 562, HB 575, HB 585, HB 629, HB 656, HB 670, HB 674.**

Correctly engrossed: **HB 3, HB 4, HB 8, HB 9, HB 598, HB 669, HB 678.**

Correctly enrolled: **SB 22, SB 26, SB 96, SB 104, SB 113, SB 158, SB 171, SB 226, SB 247, SB 269, SB 280, SB 292, SB 330, SB 351, SB 353, SB 361, SB 396, SB 426, SB 446, SB 449, SJR 9, SJR 15, SR 18, SR 19, SR 20.**

Examined by the sponsor and found to be correct: **SB 57, SB 58, SB 95, SB 123, SB 133, SB 148, SB 151, SB 156, SB 164, SB 174, SB 202, SB 299, SB 371, SB 399.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the sixty-first, sixty-second, sixty-third, sixty-fourth, sixty-fifth, sixty-sixth, sixty-seventh, and sixty-eighth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Steinbeisser, Chairman):

4/8/2009

SR 29, be adopted. Report adopted.

HB 655, be concurred in. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Black, Chairman):

4/8/2009

SR 30, be adopted. Report adopted.

SR 31, be adopted. Report adopted.

FISH AND GAME (Barkus, Chairman):

4/8/2009

SR 25, be adopted. Report adopted.

HIGHWAYS AND TRANSPORTATION (Brueggeman, Chairman):

4/8/2009

SJR 39, do pass. Report adopted.

HB 615, be amended as follows:

1. Page 3, line 10.

Following: "SYSTEM"

Insert: " at the time the system is accessed under subsection (1) of this section"

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

2. Page 3, line 16.

Following: "account"

Strike: "of the enterprise fund type"

Insert: "in the state special revenue fund"

And, as amended, be concurred in. Report adopted.

Senator Hansen present at this time.

Senator Gallus present at this time.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 48**
Report No. 1, April 7, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 48** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 48** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Essmann, Chairman
Gillan
Tutvedt

For the House:

Pomnichowski
Blasdel
Lake
Wiseman

FREE CONFERENCE COMMITTEE
on **Senate Bill 427**
Report No. 1, April 8, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 427** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 427** (reference copy -- salmon) be amended as follows:

+ 1. Title, page 1, line 7.

Strike: "PROVISIONS"

Insert: "A PROVISION"

Strike: "EVIDENCE AND"

2. Page 1, line 13.

Strike: "6"

Insert: "5"

3. Page 1, line 15.

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Strike: "6"
Insert: "5"

4. Page 1, line 18.
Strike: "6"
Insert: "5"

5. Page 2, line 14.
Strike: "6"
Insert: "5"

6. Page 2, line 28 through page 3, line 5.
Strike: section 5 in its entirety
Renumber: subsequent sections

7. Page 3, line 18.
Strike: "6"
Insert: "5"

8. Page 3, line 20.
Strike: "6"
Insert: "5"

For the Senate:

Laslovich, Chairman
McGee
Story

For the House:

A. Noonan
Belcourt
Milburn

MESSAGES FROM THE GOVERNOR

April 7, 2009

Senator Bob Story
President of the Senate
State Capitol
Helena, Montana 59601

Representative Bob Bergren, Speaker
Montana House of Representatives
Capitol Building
Helena, Montana 59601

Dear President Story and Speaker Bergren:

As a matter of clarification and correction, please note that HB 283 was signed on April 1, 2009. It was delivered to the Office of the Secretary of State.

Sincerely,

BRIAN SCHWEITZER

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Governor

April 7, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Representative Bob Bergren, Speaker
Montana House of Representatives
Capitol Building
Helena, Montana 59601

Dear Senator Story and Speaker Bergren:

Please be informed that I have signed **Senate Bill 74** sponsored by Senator Laible, **Senate Bill 111** sponsored by Senator Ripley, **Senate Bill 143** sponsored by Senator Laible, **Senate Bill 185** sponsored by Senator Balyeat, **Senate Bill 188** sponsored by Senator Balyeat, **Senate Bill 209** sponsored by Senator Laslovich, **Senate Bill 250** sponsored by Senator Wanzonried, **Senate Bill 273** sponsored by Senator Laslovich, **Senate Bill 340** sponsored by Senator Laslovich, **Senate Bill 341** sponsored by Senator Laslovich, and **Senate Bill 395** sponsored by Senator Gebhardt on April 6, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in: 4/7/2009

HB 34, introduced by Wilmer
HB 40, introduced by Cohenour
HB 374, introduced by Arntzen
HB 534, introduced by Campbell
HB 536, introduced by Malek
HB 574, introduced by Vincent

Senate amendments to House joint resolution concurred in: 4/7/2009

HJR 9, introduced by Furey

Senate bill concurred in and returned to the Senate: 4/7/2009

SB 86, introduced by J. Tropila

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 4/7/2009

SB 65, introduced by Hawks

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

SB 306 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on **SB 306**:

4/7/2009

Representative Bennett
Representative Driscoll
Representative Hands (Vice Chair)
Representative Vance

SB 457 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 457**:

4/7/2009

Representative Berry
Representative Ebinger
Representative MacDonald (Vice Chair)
Representative Vance

SB 427 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 427**:

4/7/2009

Representative Belcourt
Representative Milburn
Representative A. Noonan (Vice Chair)
Representative Vincent

Governor's amendments to House bill concurred in and returned to the Senate:

4/7/2009

HB 322, introduced by Blewett

Conference Committee Report No.1 adopted:

4/7/2009

SB 79, introduced by Juneau

MOTIONS

Senator Peterson moved that the sponsor of **SR 14** be changed from Senator Gebhardt to Sen. Wanzenried. Motion carried.

Senator Gebhardt moved to take **HB 331** from Business, Labor, and Economic Affairs and be placed on second reading on Tuesday, April 13, 2008.

Yeas: Barkus, Barrett, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 30

Nays: Bales, Balyeat, Black, Brenden, R. Brown, Esp, Gillan, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 20

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Excused: None.
Total 0

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 6 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, R. Brown, Hinkle, Juneau, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 7 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, R. Brown, Essmann, Hinkle, Juneau, Tutvedt.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 123 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Esp, Hinkle, Jackson, Shockley, Steinbeisser.

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 171, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 44

Nays: Brenden, R. Brown, Curtiss, Hinkle, Larsen, Windy Boy.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 238 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 40

Nays: Barkus, Brenden, Esp, Gallus, McGee, Murphy, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 306 concurred in as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 44

Nays: Barkus, Erickson, Hinkle, Jackson, Steinbeisser, Mr. President.

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 478 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 487 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 40

Nays: Branae, Cooney, Erickson, Hawks, Juneau, Kaufmann, Keane, Moss, Schmidt, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 562 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Nays: Balyeat, Gebhardt, Hinkle, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 585 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Erickson, Hawks, Kaufmann, McGee, Steinbeisser.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 670 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 79 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 42 - Senator Balyeat moved **HB 42** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 110 - Senator Jent moved **HB 110** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Barkus, Brenden, R. Brown, Jackson.

Total 4

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Excused: None.
Total 0

HB 173 - Senator Hinkle moved **HB 173** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 43

Nays: Erickson, Essmann, Gallus, Lewis, Ripley, Zinke, Mr. President.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 634 - Senator Shockley moved **HB 634** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barrett, Black, Branae, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 37

Nays: Bales, Barkus, Brenden, R. Brown, T. Brown, Esp, Gallus, Jackson, Lewis, Peterson, Ripley, Steinbeisser, Mr. President.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

SR 11 - Senator Gebhardt moved that the nomination transmitted by the Governor by concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 11, and that the ayes and nays be spread upon the journal.

Member of the Board of Environmental Review--Marvin Miller, Butte

Motion carried as follows:

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Hawks, Laible.

Total 3

SR 12 - Senator Gebhardt moved that the nomination transmitted by the Governor by concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 12, and that the ayes and nays be spread upon the journal.

Member of the Board of Environmental Review--Joseph Whalen, Miles City

Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 13 - Senator Gebhardt moved that the nomination transmitted by the Governor by concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 13, and that the ayes and nays be spread upon the journal.

Member of the Board of Environmental Review--Robin Shropshire, Helena

Motion carried as follows:

Yeas: Barkus, Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 31

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Nays: Bales, Balyeat, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Hinkle, Jackson, Laible, McGee, Murphy, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 14 - Senator Wanzenried moved that the nomination transmitted by the Governor by concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 14, and that the ayes and nays be spread upon the journal.

Member of the Board of Environmental Review--William Rossbach, Helena

Motion **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 21 - Senator J. Tropila moved that the nomination transmitted by the Governor by concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 21, and that the ayes and nays be spread upon the journal.

Commissioner of Labor and Industry--Keith Kelly, Helena

Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat, Hinkle, McGee.

Total 3

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 22 - Senator J. Tropila moved that the nomination transmitted by the Governor by concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 22, and that the ayes and nays be spread upon the journal.

Director, Department of Commerce--Anthony J. Preite, Helena

Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Hinkle.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 23 - Senator R. Brown moved that the nomination transmitted by the Governor by concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 23, and that the ayes and nays be spread upon the journal.

Director of the Department of Public Health and Human Services--Anna Whiting Sorrell, Helena

Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Excused: None.
Total 0

SR 28 - Senator Shockley moved that the nomination transmitted by the Governor by concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 28, and that the ayes and nays be spread upon the journal.

(1) As members of the Hard Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:
Edward M. Tinsley, Helena, Montana, for a term ending January 1, 2013.
Mary Ellen Cremer, Big Timber, Montana, for a term ending January 1, 2013.
Joe Michaletz, Helena, Montana, for a term ending January 1, 2013.

(2) As members of the Board of Horseracing, in accordance with section 2-15-3106, MCA:
Mike Tatsey, Valier, Montana, for a term ending January 20, 2012.
Carol Lambert, Broadus, Montana, for a term ending January 20, 2012.

(3) As members of the Board of Housing, in accordance with section 2-15-1814, MCA:
Audrey Black Eagle, Lodge Grass, Montana, for a term ending January 1, 2013.
J.P. Crowley, Helena, Montana, for a term ending January 1, 2013.
Jeff Rupp, Bozeman, Montana, for a term ending January 1, 2013.
Elizabeth Scanlin, Red Lodge, Montana, for a term ending January 1, 2013.

(4) As members of the Milk Control Board, in accordance with section 2-15-3105, MCA:
Gary A. Parker, Fort Shaw, Montana, for a term ending January 1, 2013.
James Prinkki, Roberts, Montana, for a term ending January 1, 2013.
Larry Van Dyke, Bozeman, Montana, for a term ending January 1, 2013.

(5) As a member of the Board of Nursing, in accordance with section 2-15-1734, MCA:
Connie Reichelt, Havre, Montana, for a term ending July 1, 2013.

(6) As members of the Board of Pardons and Parole, in accordance with section 2-15-2302, MCA:
Teresa McCann O'Connor, Billings, Montana, for a term ending January 1, 2013.
John Ward, Helena, Montana, for a term ending January 1, 2013.
Samuel Lemaich, Missoula, Montana, for a term ending January 1, 2013.

(7) As a member of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:
Kelli Bush, Butte, Montana, for a term ending July 1, 2012.

(8) As a member of the Board of Realty Regulation, in accordance with section 2-15-1757, MCA:
Lucinda Willis, Polson, Montana, for a term ending May 9, 2013.

(9) As members of the State Compensation Insurance Fund Board, in accordance with section 2-15-1019, MCA:
James Swanson, Glendive, Montana, for a term ending April 28, 2013.
Jane DeBruycker, Dutton, Montana, for a term ending April 28, 2013.
Ken Johnson, Missoula, Montana, for a term ending April 28, 2013.
Thomas R. Heisler, Great Falls, Montana, for a term ending April 28, 2013.

Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau,

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Curtiss.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senate at ease.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 8 - Senator Brueggeman moved **HB 8** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

HB 9 - Senator Barkus moved consideration of **HB 9** be placed further down the second reading board for the purpose of amendment. Motion carried.

HB 333 - Senator R. Brown moved **HB 333** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley,

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

Senator Gallus present at this time.

HB 583 - Senator Steinbeisser moved **HB 583** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Hinkle, Jackson, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 65 - House Amendments - Senator Hawks moved House amendments to **SB 65** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Balyeat, Brenden, R. Brown, Hinkle.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 231 - House Amendments - Senator Laible moved House amendments to **SB 231** be concurred in. Motion carried

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 430 - House Amendments - Senator Hamlett moved House amendments to **SB 430** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 9 - Senator Barkus moved consideration of **HB 9** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SB 73 - Conference Committee Report No. 1 - Senator Hawks moved the Conference Committee report to **SB 73** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: R. Brown.

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 108 - Free Conference Committee Report No. 1 - Senator McGee moved the Free Conference Committee report to **SB 108** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 228 - Conference Committee Report No. 1 - Senator McGee moved the Conference Committee report to **HB 228** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.

Total 40

Nays: Erickson, Hansen, Juneau, Kaufmann, Moss, Schmidt, Stewart-Peregoy, J. Tropila, Williams, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 622 - Free Conference Committee Report No. 1 - Senator R. Brown moved the Free Conference Committee report to **HB 622** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 322 - Governor's Amendments - Senator Shockley moved Governor's amendments to **HB 322** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 12 - Senator Jent moved **HB 12** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 27

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 52 - Senator Perry moved **HB 52** be concurred in. Motion carried as follows:

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Gallus assumed the chair.

HB 130 - Senator Laslovich moved **HB 130** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 37

Nays: Bales, Barkus, Brenden, Esp, Essmann, Gebhardt, Jackson, Keane, Lewis, Peterson, Ripley, Zinke, Mr. President.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Esp excused at this time.

HB 131 - Senator Shockley moved **HB 131** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 36

Nays: Bales, Barkus, Brenden, R. Brown, Essmann, Gebhardt, Jackson, Keane, Lewis, Peterson, Ripley, Steinbeisser, Mr. President.

Total 13

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Total 0

Excused: Esp.

Total 1

Senator Esp present at this time.

Senator Laslovich reassumed the chair.

HB 132 - Senator Jent moved **HB 132** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 42

Nays: Bales, R. Brown, Esp, Essmann, Jackson, Keane, Peterson, Mr. President.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 280 - Senator R. Brown moved **HB 280** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 356 - Senator Tutvedt moved **HB 356** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 9 - Senator Barkus moved consideration of **HB 9** be placed at the top of the second reading board. Motion carried.

HB 9 - Senator Brenden moved **HB 9** be concurred in.

HB 9 - Senator Barkus moved **HB 9**, second reading copy, be amended as follows:

1. Page 4, line 30.

Strike: "NORTH WEST"

Insert: "Northwest"

2. Page 5, line 18.

Following: "basis."

Insert: "(1)"

3. Page 5, line 22.

Following: line 21

Insert: "(2) If the interest earnings of the cultural trust in the 2011 biennium are over \$20,000 below the projected earnings of \$1.3 million, then the grants for the Helena Symphony Orchestra & Chorale, Montana Repertory Theatre, Northwest History Museum, Great Falls History Museum, and Old Trail Museum projects may be reduced to provide adequate funds for all other projects."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Cooney.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-SEVENTH LEGISLATIVE DAY - APRIL 8, 2009

HB 9 - Senator Brenden moved **HB 9**, as amended, be concurred in. Motion carried as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 40

Nays: Bales, Balyeat, R. Brown, T. Brown, Esp, Essmann, McGee, Perry, Shockley, Mr. President.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senator Bales moved to re-refer **HB 130** to Finance and Claims. Motion carried.

Senator Bales moved to re-refer **HB 131** to Finance and Claims. Motion carried.

Senator Bales moved to re-refer **HB 132** to Finance and Claims. Motion carried.

Senator Bales moved to re-refer **HB 52** to Finance and Claims. Motion carried.

MOTIONS

Senator Hamlett moved to change his vote on **HB 6** from no to yes. Without objection, so ordered.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:30 a.m., Thursday, April 9, 2009. Motion carried.

Senate adjourned at 2:59 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
April 9, 2009

Senate Chambers
State Capitol

Senate convened at 8:30 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNAL:

4/7/2009

Correctly printed: **SJR 39, SR 25, SR 29, SR 30, SR 31, HB 8, HB 12, HB 42, HB 52, HB 110, HB 130, HB 131, HB 132, HB 173, HB 280, HB 331, HB 333, HB 356, HB 583, HB 634, HB 655.**

Correctly engrossed: **HB 9, HB 615.**

Correctly enrolled: **SB 8, SB 32, SB 86, SB 281, SB 286, SB 349, SB 442, SJR 32.**

Signed by the Speaker at 11:00 a.m., April 8, 2009: **SB 62, SB 71, SB 76, SB 84, SB 124, SB 126, SB 127, SB 193, SB 222, SB 227, SB 297, SB 308, SB 360, SB 367, SB 375, SB 388, SB 400, SB 401, SB 405, SB 424, SB 441, SB 444, SB 463.**

Signed by the President at 11:30 a.m., April 7, 2009: **SB 62, SB 71, SB 76, SB 84, SB 124, SB 126, SB 127, SB 193, SB 222, SB 227, SB 297, SB 308, SB 360, SB 367, SB 375, SB 388, SB 400, SB 401, SB 405, SB 424, SB 441, SB 444, SB 463.**

Signed by the Secretary of the Senate at 4:25 p.m., April 6, 2009: **SB 62, SB 71, SB 76, SB 84, SB 124, SB 126, SB 127, SB 193, SB 222, SB 227, SB 297, SB 308, SB 360, SB 367, SB 375, SB 388, SB 400, SB 401, SB 405, SB 424, SB 441, SB 444, SB 463.**

Delivered to the Governor for approval at 9:05 a.m., April 9, 2009: **SB 62, SB 71, SB 76, SB 84, SB 124, SB 126, SB 127, SB 193, SB 222, SB 227, SB 297, SB 308, SB 360, SB 367, SB 375, SB 388, SB 400, SB 401, SB 405, SB 424, SB 441, SB 444, SB 463.**

Signed by the Speaker at 8:00 a.m., April 9, 2009: **SB 57, SB 58, SB 95, SB 123, SB 133, SB 148, SB 151, SB 156, SB 164, SB 174, SB 202, SB 299, SB 371, SB 399.**

Signed by the President at 9:30 a.m., April 8, 2009: **SB 57, SB 58, SB 95, SB 123, SB 133, SB 148, SB 151, SB 156, SB 164, SB 174, SB 202, SB 299, SB 371, SB 399.**

Signed by the Secretary of the Senate at 4:25 p.m., April 7, 2009: **SB 57, SB 58, SB 95, SB 123, SB 133, SB 148, SB 151, SB 156, SB 164, SB 174, SB 202, SB 299, SB 371, SB 399.**

Signed by the Speaker at 10:30 a.m., April 9, 2009: **SB 22, SB 26, SB 96, SB 104, SB 113, SB 158, SB 171, SB 226, SB 247, SB 269, SB 280, SB 292, SB 330, SB 351, SB 353, SB 361, SB 396, SB 426, SB 446, SB 449, SJR 9, SJR 15.**

Signed by the President at 9:00 a.m., April 9, 2009: **SB 22, SB 26, SB 96, SB 104, SB 113, SB 158, SB 171, SB 226, SB 247, SB 269, SB 280, SB 292, SB 330, SB 351, SB 353, SB 361, SB 396, SB 426, SB 446, SB 449, SJR 9, SJR 15, SR 18, SR 19, SR 20.**

Signed by the Secretary of the Senate at 4:45 p.m., April 8, 2009: **SB 22, SB 26, SB 96, SB 104, SB 113, SB 158, SB 171, SB 226, SB 247, SB 269, SB 280, SB 292, SB 330, SB 351, SB 353, SB 361, SB 396, SB 426, SB 446, SB 449, SJR 9, SJR 15, SR 18, SR 19, SR 20.**

Delivered to the Governor for approval at 3:07 p.m., April 9, 2009: **SB 22, SB 26, SB 96, SB 104, SB 113, SB 158, SB 171, SB 226, SB 247, SB 269, SB 280, SB 292, SB 330, SB 351, SB 353, SB 361, SB 396, SB 426, SB 446, SB 449.**

Delivered to the Governor for approval at 10:35 a.m., April 9, 2009: **SB 57, SB 58, SB 95, SB 123, SB 133, SB 148, SB 151, SB 156, SB 164, SB 174, SB 202, SB 299, SB 371, SB 399.**

Examined by the sponsor and found to be correct: **SB 8, SB 22, SB 26, SB 32, SB 86, SB 96, SB 104, SB 113, SB 158, SB 171, SB 226, SB 247, SB 269, SB 280, SB 281, SB 286, SB 292, SB 330, SB 349, SB 351, SB**

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

353, SB 361, SB 396, SB 426, SB 442, SB 446, SB 449, SJR 9, SJR 15, SR 18, SR 19, SR 20, SR 32.

Delivered to the Secretary of State at 11:54 a.m., April 9, 2009: **SR 18, SR 19, SR 20.**

Delivered to the Secretary of State at 11:54 a.m., April 9, 2009: **SJR 9, SJR 15.**

Delivered to the Secretary of State at 2:47 p.m., April 9, 2009: **SR 32.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/8/2009

HB 5, be amended as follows:

1. Page 3, line 4.

Following: line 3

Insert: "Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for state energy programs."

2. Page 3, line 5.

Strike: "870,000 [LRBP fund] 1,500,000 [federal special revenue]"

Insert: "1,073,568 [LRBP fund] 1,276,432 [federal special revenue]"

3. Page 3, line 6.

Strike: "2,370,000"

Insert: "2,350,000"

4. Page 4, line 5.

Strike: "3,870,000 [federal special revenue]"

Insert: "1,260,000 [LRBP Fund] 2,610,000 [federal special revenue]"

5. Page 4, line 8.

Following: "PROGRAMS"

Strike: "AND OTHER FEDERAL FUNDS RECEIVED PURSUANT TO THE ACT"

6. Page 4, line 14.

Strike: "1,660,000 [federal special revenue]"

Insert: "1,660,000 [LRBP fund]"

7. Page 4, line 15 through line 16.

Strike: line 15 through line 16 in their entirety

8. Page 5, line 16.

Strike: in both places, "2,000,000"

Insert: "1,600,000 [LRBP fund]" and "1,600,000 [Total]"

9. Page 5, line 17 through line 18.

Strike: "FEDERAL SPECIAL" on line 17 through "111-5." on line 18

Strike: "FEDERAL AUTHORITY" on line 18

Insert: "funds"

10. Page 8, line 17.

Following: line 16

Insert: "Interdisciplinary Science Building Finish Out, UM-Missoula 8,000,000 [Authority Only] 8,000,000 [Total]"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Authority is hereby granted to the university of Montana to make capital improvements for the interdisciplinary science building finish out in the indicated amount contingent upon receipt of federal special revenue as part of funds made available pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, through competitive grants. All costs for the operation and maintenance of the improvements constructed under this appropriation must be paid by the university of Montana from nonstate sources."

11. Page 9, line 11 through 15.

Strike: line 11 through line 15 in their entirety

12. Page 11, line 10.

Strike: in both places "2,000,000"

Insert: "5,000,000 [State Special Revenue] 5,000,000 [Total]"

13. Page 12, line 10.

Strike: "425,000 [federal special revenue]"

Insert: "425,000 [LRBP fund]"

14. Page 12, line 11 through line 12.

Strike: line 11 through line 12 in their entirety

15. Page 12, line 13.

Strike: "650,000 [federal special revenue]"

Insert: "650,000 [LRBP fund]"

16. Page 12, line 14 through line 15.

Strike: line 14 through line 15 in their entirety

17. Page 12, line 17.

Strike: "335,172 [LRBP fund] 64,828 [federal special revenue]"

Insert: "400,000 [LRBP fund]"

18. Page 12, line 18 through line 19.

Strike: line 18 through line 19 in their entirety

19. Page 12, line 20.

Strike: "1,240,000 [federal special revenue]"

Insert: "1,240,000 [LRBP fund]"

20. Page 12, line 21 through page 13, line 1.

Strike: line 21 through line 1 in their entirety

21. Page 13, line 2.

Strike: "6,000,000 [federal special revenue]"

Insert: "6,000,000 [LRBP fund]"

22. Page 13, line 3 through line 4.

Strike: line 3 through line 4 in their entirety

23. Page 13, line 5.

Strike: "1,640,000 [federal special revenue]"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Insert: "1,640,000 [LRBP fund]"

24. Page 13, line 6 through line 7.

Strike: line 6 through line 7 in their entirety

25. Page 13, line 8.

Strike: "1,200,000 [federal special revenue]"

Insert: "1,200,000 [LRBP fund]"

26. Page 13, line 9 through line 10.

Strike: line 9 through line 10 in their entirety

27. Page 13, line 12.

Strike: "2,250,000 [federal special revenue]"

Insert: "2,250,000 [LRBP fund]"

28. Page 13, line 13 through line 14.

Strike: line 13 through line 14 in their entirety

29. Page 13, line 16.

Strike: "1,600,000 [federal special revenue]"

Insert: "1,600,000 [LRBP fund]"

30. Page 13, line 17 through line 18.

Strike: line 17 through line 18 in their entirety

31. Page 13, line 19.

Strike: "12,300,000 [federal special revenue]"

Insert: "12,300,000 [LRBP fund]"

32. Page 13, line 20 through line 21.

Strike: "FEDERAL SPECIAL" on line 20 through "111-5." on line 21

And, as amended, be concurred in. Report adopted.

HB 10, be amended as follows:

1. Page 2, line 15.

Following: line 14

Insert: "DEPARTMENT OF REVENUE

Efficiency through Imaging 3,366,178[LRITP] 3,366,178[Total]"

2. Page 3, line 12.

Following: "project."

Insert: "To reduce state risk, a vendor who successfully bids on the unemployment insurance tax modernization project must have installed in at least one other state a substantially similar project, which must be in production and must meet all federal department of labor reporting requirements."

3. Page 3, line 17.

Following: "COMMITTEE."

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Insert: "To reduce state risk, a vendor who successfully bids on the medicaid management information system replacement project must have installed in at least one other state a substantially similar project, which must be in production and must be certified by the centers for medicare and medicaid services."

And, as amended, be concurred in. Report adopted.

HB 11, be amended as follows:

1. Page 3, line 13.

Strike: line 13 in its entirety

Renumber: subsequent items

2. Page 5, line 8.

Strike: "\$7,262,000"

Insert: "\$6,512,000"

3. Page 12, line 23.

Following: line 22

Insert: "NEW SECTION. Section 13. Coordination instruction. (1) If the total transfers for the treasure state endowment program TSEP infrastructure in section 51-F, item 3, of House Bill No. 645 is reduced below a total of \$23 million, the appropriation of \$40,173,080 from the treasure state endowment state special revenue account in [section 11 of this act] is reduced by a like amount.

(2) If the total transfers for the treasure state endowment program regional water system in section 51-F, item 3, of House Bill No. 645 is reduced below a total of \$8 million, the appropriation of \$15 million from the treasure state endowment regional water system special revenue account in [section 7 of this act] is reduced by a like amount."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HB 224, be amended as follows:

1. Page 1, line 22.

Following: "hospital."

Insert: "The amount to be reimbursed as determined in subsection (2) must be reimbursed in equal annual installments over 4 years as long as the participant continues to work at either facility."

2. Page 1.

Following: line 24

Insert: "(c) The reimbursement payment by the board of regents must be made to the participant and the loan institution."

And, as amended, be concurred in. Report adopted.

HB 258, be amended as follows:

1. Page 1, line 16.

Following: "auditor for"

Strike: "fiscal years 2010 and 2011"

Insert: "the 2011 biennium"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

And, as amended, be concurred in. Report adopted.

HB 459, be amended as follows:

1. Page 1, line 15.

Following: "at"

Strike: "the university of Montana-Missoula"

Insert: "a unit of the Montana university system"

2. Page 1, line 17.

Following: "districts"

Insert: "and students registering with a county superintendent"

3. Page 1, line 18.

Strike: "faculty"

Insert: "instructors"

4. Page 1, line 22.

Following: "from"

Strike: "the"

5. Page 1, line 23 through page 2, line 2.

Strike: subsections (a) through (j) in their entirety

Insert: "(a) the commissioner of higher education or a designee;

(b) the superintendent of public instruction or a designee;

(c) a Montana licensed and endorsed classroom teacher appointed by the board of public education;

(d) a Montana licensed school district administrator appointed by the board of public education;

(e) a trustee of a Montana school district appointed by the board of public education;

(f) the dean of the school of education of the hosting unit of the Montana university system or a designee as a nonvoting member; and

(g) the two officers provided for in subsection (5) as nonvoting members."

6. Page 2, line 5.

Following: "board"

Strike: "of the Montana virtual academy"

7. Page 2, line 7 through line 8.

Strike: "The program director" on line 7 through "Montana-Missoula."

8. Page 2, line 15.

Following: ";

Strike: "and"

9. Page 2, line 16.

Following: line 15

Insert: "(g) grant opportunities; and"

Renumber: subsequent subsection

10. Page 2, line 23.

Following: "LEGISLATURE."

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Strike: "THE PROGRAM DIRECTOR SHALL REPORT TO"

Insert: "The governing board shall provide"

Strike: "63RD"

Insert: "62nd"

11. Page 2, line 24.

Following: "LEGISLATURE"

Strike: "ON HOW" through "SPENT"

Insert: "with a report that details:

(1) how the line item funding in House Bill No. 645 cited in [section 4] was spent; and

(2) future funding requirements and recommendations, instructor standards, curriculum development issues, and evaluation of the software for implementing a seamless educational distance learning continuum in the state of Montana"

And, as amended, be concurred in. Report adopted.

HB 464, be amended as follows:

1. Page 2, line 7 through line 9.

Strike: section 3 in its entirety

And, as amended, be concurred in. Report adopted.

HB 676, be amended as follows:

1. Title, line 9.

Following: "HOMES;"

Insert: "REVISING THE DEFINITION OF PRESENT LAW BASE FOR THE ENSUING BUDGET CYCLE;"

2. Title, line 13.

Following: line 12

Insert: "MODIFYING THE USE OF THE COAL SEVERANCE TAX COMBINED ACCOUNT; PROVIDING A 1 PERCENT INCREASE IN EACH YEAR OF THE 2011 BIENNium IN THE BASIC ENTITLEMENT AND THE TOTAL PER-ANB ENTITLEMENT;"

3. Title, line 14.

Following: "TANF;"

Insert: "AUTHORIZING MONEY IN THE TOBACCO SETTLEMENT ACCOUNT AND THE HEALTH AND MEDICAID INITIATIVES ACCOUNT TO BE USED FOR THE HEALTHY MONTANA KIDS PLAN; REMOVING THE PROHIBITION AGAINST USING CHILDREN'S HEALTH INSURANCE PROGRAM INSURANCE FOR CONTRACEPTION;"

4. Title, line 19.

Following: ";"

Insert: "PROVIDING A FUND TRANSFER FROM THE JUNK VEHICLE FUND TO THE NATURAL RESOURCES OPERATIONS STATE SPECIAL REVENUE ACCOUNT;"

5. Title, line 20.

Following: "GRANTS;"

Insert: "REVISING THE ALLOCATION OF PREMIUM TAXES; REVISING THE ELIGIBILITY FOR THE CHILDREN'S HEALTH INSURANCE PROGRAM;"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

6. Title, line 22.

Following: "16-11-119,"

Insert: "17-6-606, 17-7-102,"

Following: "17-7-111,"

Insert: "17-7-304, 20-9-306, 33-2-708,"

Following: "53-4-212,"

Insert: "53-4-1004, 53-4-1005, 53-4-1012, 53-4-1115, 53-4-1201,"

7. Title, line 24.

Strike: "A RETROACTIVE APPLICABILITY DATE"

Insert: "APPLICABILITY DATES"

8. Page 8, line 13.

Following: "districts,"

Strike: "and"

9. Page 8, line 14.

Following: "Act"

Insert: ", and for the biennium beginning July 1, 2009, support for the rail transit authority"

10. Page 9, line 25.

Following: "districts,"

Strike: "and"

11. Page 9, line 26.

Following: "Act" on line 26

Insert: ", and for the biennium beginning July 1, 2009, support for the rail transit authority"

12. Page 11.

Following: line 23

Insert: "Section 10. Section 17-6-606, MCA, is amended to read:

"17-6-606. Tobacco settlement accounts -- purpose -- uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:

(a) discourage children from starting use of tobacco;

(b) assist adults in quitting use of tobacco;

(c) provide funds for the ~~children's health insurance program~~ healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and

(d) provide funds for the comprehensive health association programs.

(2) An amount equal to 32% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to 17% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:

(a) matching funds to secure the maximum amount of federal funds for the ~~Children's Health Insurance~~

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

~~Program Act~~ healthy Montana kids plan provided for in Title 53, chapter 4, part ~~10~~ 11; and

(b) programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services."

Insert: "Section 11. Section 17-7-102, MCA, is amended to read:

"17-7-102. (Temporary) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(b) The term does not include funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) (a) "Present law base" means, subject to subsection (10)(b), that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

~~(a)~~(i) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

~~(b)~~(ii) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

~~(c)~~(iii) inflationary or deflationary adjustments; and

~~(d)~~(iv) elimination of nonrecurring appropriations.

(b) For the budget for the 2011 legislative session, present law base must be adjusted by reducing general

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

fund budgets by the equivalent of that portion of the 2% across-the-board reduction assessed by the 61st legislature on selected agencies that was allocated by those agencies to personal services in the 2011 biennium. The director of the governor's office of budget and program planning and the legislative fiscal analyst shall agree on a mechanism for determining how agencies have allocated this reduction.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell. (Terminates June 30, 2020--sec. 11, Ch. 319, L. 2007.)

17-7-102. (Effective July 1, 2020) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell."

Renumber: subsequent sections

13. Page 12, line 15.

Strike: "subsection"

Insert: "subsections"

Following: "(7)"

Insert: "and (8)"

14. Page 15.

Following: line 6

Insert: "(8) Each agency budget request for the 2013 biennium must include the adjustments to present law base specified in 17-7-102(10)(b)."

Insert: "**Section 13.** Section 17-7-304, MCA, is amended to read:

"17-7-304. Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) ~~for state money appropriated for the state children's health insurance program provided for in Title 53, chapter 4, part 10,~~ and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) (a) Subject to subsection (4)(b), after the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

(b) (i) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to a legislative branch entity may be deposited in the account established in 5-11-407.

(ii) After the end of a biennium, any portion of the unexpended and unencumbered money appropriated for the operation of the preceding legislature in a separate appropriation act may be deposited in the account established in 5-11-407. The approving authority shall determine the portion of the unexpended and unencumbered money that is deposited in the account. ~~(Bracketed language terminates on occurrence of contingency--sec. 7, Ch. 565, L. 2005.)"~~

Insert: "Section 14. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "BASE" means base amount for school equity.
- (2) "BASE aid" means:
 - (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;
 - (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;
 - (c) the total quality educator payment;
 - (d) the total at-risk student payment;
 - (e) the total Indian education for all payment; and
 - (f) the total American Indian achievement gap payment.
- (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.
- (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.
- (5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.
- (6) "Basic entitlement" means:
 - (a) for each high school district:
 - (i) ~~\$236,552~~ \$246,085 for fiscal year ~~2008~~ 2010; and
 - (ii) ~~\$243,649~~ \$248,546 for each succeeding fiscal year;
 - (b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:
 - (i) ~~\$21,290~~ \$22,141 for fiscal year ~~2008~~ 2010;
 - (ii) ~~\$21,922~~ \$22,362 for each succeeding fiscal year; and
 - (c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:
 - (i) for kindergarten through grade 6 elementary program:
 - (A) ~~\$21,290~~ \$22,141 for fiscal year ~~2008~~ 2010; and
 - (B) ~~\$21,922~~ \$22,362 for each succeeding fiscal year; plus
 - (ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:
 - (A) ~~\$60,275~~ \$62,704 for fiscal year ~~2008~~ 2010; and
 - (B) ~~\$62,083~~ \$63,331 for each succeeding fiscal year.
- (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.
- (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

- (a) 175% of special education allowable cost payments; or
- (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,861~~ \$6,097 for fiscal year ~~2008~~ 2010 and ~~\$6,037~~ \$6,158 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$4,579~~ \$4,763 for fiscal year ~~2008~~ 2010 and ~~\$4,716~~ \$4,811 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~\$4,579~~ \$4,763 for fiscal year ~~2008~~ 2010 and ~~\$4,716~~ \$4,811 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,861~~ \$6,097 for fiscal year ~~2008~~ 2010 and ~~\$6,037~~ \$6,158 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying \$3,036 for fiscal year 2008 and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators as provided in 20-9-327."

Insert: "Section 15. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) biennial renewal of license, \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

(iii) surplus lines insurance producer's license:

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

- (A) application for original license and for issuance of license, if issued, \$50;
 - (B) biennial renewal of license, \$100;
 - (C) lapsed license reinstatement fee, \$200;
 - (iv) insurance adjuster's license:
 - (A) application for original license, including issuance of license, if issued, \$50;
 - (B) biennial renewal of license, \$100;
 - (C) lapsed license reinstatement fee, \$200;
 - (v) insurance consultant's license:
 - (A) application for original license, including issuance of license, if issued, \$50;
 - (B) biennial renewal of license, \$100;
 - (C) lapsed license reinstatement fee, \$200;
 - (vi) viatical settlement broker's license:
 - (A) application for original license, including issuance of license, if issued, \$50;
 - (B) biennial renewal of license, \$100;
 - (C) lapsed license reinstatement fee, \$200;
 - (vii) resident and nonresident rental car entity producer's license:
 - (A) application for original license, including issuance of license, if issued, \$100;
 - (B) quarterly filing fee, \$25;
 - (viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), \$50;
 - (ix) 50 cents for each page for copies of documents on file in the commissioner's office.
 - (c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.
- (2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.
- (b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).
- (3) (a) ~~Except as provided in subsection (3)(b), the~~ The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.
- ~~(b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115.~~
- ~~(c)(b)~~ (b) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.
- (4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Renumber: subsequent sections

15. Page 18.

Following: line 17

Insert: "Section 18. Section 53-4-1004, MCA, is amended to read:

"53-4-1004. (Temporary) Eligibility for program -- rulemaking. (1) To be considered eligible for the program, a child:

- (a) must be 18 years of age or younger;
- (b) must have a combined family income at or below ~~250%~~ 200% of the federal poverty level or at a lower level determined by the department of public health and human services as provided in subsection (4);
- (c) may not already be covered by private insurance that offers creditable coverage, as defined in 42 U.S.C. 300gg(c), for 3 months prior to enrollment in the program or since birth, whichever period is less;
- (d) may not be eligible for medicaid benefits; and

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

(e) must be a United States citizen or qualified alien and a Montana resident.

(2) The department of public health and human services shall adopt rules that establish the program's criteria for residency. The criteria must conform as nearly as practicable with the residency requirements for medicaid eligibility.

(3) Subject to 53-4-1009(3), rules governing eligibility may also include financial standards and criteria for income and resources, treatment of resources, and nonfinancial criteria.

(4) If the department determines that there is insufficient funding for the program, it may lower the percentage of the federal poverty level established in subsection (1)(b) in order to reduce the number of persons who may be eligible to participate or may limit the amount, scope, or duration of specific services provided. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999; sec. 14, I.M. No. 155, approved November 4, 2008.)"

Insert: "Section 19. Section 53-4-1005, MCA, is amended to read:

"53-4-1005. (Temporary) Benefits provided. (1) Benefits provided to participants in the program may include but are not limited to:

- (a) inpatient and outpatient hospital services;
- (b) physician and advanced practice registered nurse services;
- (c) laboratory and x-ray services;
- (d) well-child and well-baby services;
- (e) immunizations;
- (f) clinic services;
- (g) dental services;
- (h) prescription drugs;
- (i) mental health and substance abuse treatment services;
- (j) hearing and vision exams; and
- (k) eyeglasses.

(2) The department shall adopt rules, pursuant to its authority under 53-4-1009, allowing it to cover significant dental needs beyond those covered in the basic plan. Expenditures under this subsection may not exceed \$100,000 in state funds, plus any matched federal funds, each fiscal year.

~~(3) The department is specifically prohibited from providing payment for birth control contraceptives under this program.~~ (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999; sec. 3, Ch. 169, L. 2007.)"

Insert: "Section 20. Section 53-4-1012, MCA, is amended to read:

"53-4-1012. (Temporary) State special revenue account. (1) There is an account in the state special revenue fund to the credit of the state children's health insurance program administered by the department of public health and human services. Any interest or income derived from the account must be deposited in the account.

(2) Money deposited in this account must be used by the department to cover ~~additional children, to expand eligibility within the limits provided in 53-4-1004,~~ to reduce or maintain premiums, to pay health care claims, or to establish and maintain a reserve.

~~(3) The department shall transfer the unexpended balance of an appropriation into the account provided for in subsection (1) at the expiration of the appropriation to be used for the purposes stated in subsection (2).~~ (Terminates on occurrence of contingency--sec. 7, Ch. 565, L. 2005; sec. 5, Ch. 129, L. 2007.)"

Insert: "Section 21. Section 53-4-1115, MCA, is amended to read:

"53-4-1115. Special revenue account. (1) There is an account in the state special revenue fund to the credit of the department for the purposes provided in subsection (2). ~~There must be paid into the account the amounts collected under 33-2-708(3)(b).~~ Any interest or income derived from the account must be deposited in the account.

(2) Money in the account:

(a) is to be used solely to cover the number of additional enrollees in the plan that exceeds the number of enrollees as of November 4, 2008, within the limits provided in 53-4-1004, 53-6-131, and this part, ~~and~~ to cover the costs of enrollment, including premium assistance, under 53-4-1108(1), ~~and~~ to pay administrative costs associated with expanded eligibility, and to establish and maintain a reserve; and

(b) may be used only to match federal funds available under the children's health insurance program and the Montana medicaid program.

(3) The unexpended balance of an appropriation from the account must remain in the account and may be

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

used only for the purposes stated in subsection (2).

(4) The special revenue account does not affect and is not exclusive of any other sources of funding for the programs described in 53-4-1104(2), including the special revenue account provided for in 53-4-1012.

(5) If the department determines that there is insufficient funding for the purposes of subsection (2), it may reduce eligibility requirements for participants in the children's health insurance program as provided in 53-4-1004(4)."

Insert: "Section 22. Section 53-6-1201, MCA, is amended to read:

"53-6-1201. Special revenue fund -- health and medicaid initiatives. (1) There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

(a) money from cigarette taxes deposited under 16-11-119(1)(c);

(b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(3)(b); and

(c) any interest and income earned on the account.

(3) This account may be used only to provide funding for:

(a) the state funds necessary to take full advantage of available federal matching funds in order to administer the plan and maximize enrollment of eligible children under the ~~children's health insurance program~~ healthy Montana kids plan, provided for under Title 53, chapter 4, part ~~10~~ 11, and to provide outreach to the eligible children; ~~The increased revenue in this account is intended to increase enrollment rates for eligible children in the program and not to be used to support existing levels of enrollment based upon appropriations for the biennium ending June 30, 2005.~~

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits;

(e) funding new programs to assist eligible small employers with the costs of providing health insurance benefits to eligible employees;

(f) the cost of administering the tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments as provided in Title 33, chapter 22, part 20; and

(g) providing a state match for the medicaid program for premium incentive payments or premium assistance payments to the extent that a waiver is granted by federal law as provided in 53-2-216.

(4) ~~(a) Except for \$1 million appropriated for the startup costs of 53-6-1004 and 53-6-1005, the money appropriated for fiscal year 2006 for the programs in subsections (3)(b) and (3)(d) through (3)(g) may not be expended until the office of budget and program planning has certified that \$25 million has been deposited in the account provided for in this section or December 1, 2005, whichever occurs earlier.~~

~~(b)(a)~~ On or before July 1, the budget director shall calculate a balance required to sustain each program in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the budget director determines that the reserve balance of the revenue will not support the level of appropriation, the budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating budget for the program to reflect the available revenue as determined by the budget director.

~~(c)(b)~~ Until the programs or credits described in subsections (3)(b) and (3)(d) through (3)(g) are established, the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).

(5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

(6) The department of public health and human services may adopt rules to implement this section."

Renumber: subsequent sections

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

16. Page 22.

Following: line 4

Insert: "NEW SECTION. **Section 27. Legislative intent.** It is the intent of the legislature that the appropriation in House Bill No. 2 for an FTE in the veterans' affairs program be attached to the veterans service office in Missoula and that the FTE, on average, spend 2 days each week in Hamilton, 2 days each week in Polson, and 1 day each week in Missoula."

Insert: "NEW SECTION. **Section 28. Emergency medical service grant program reports.** The department of transportation shall report to the children, families, health, and human services interim committee twice during each year of the interim on the results of the emergency medical service grant program funded in House Bill No. 2. The reports must include grants submitted, grants processed and awarded, and the remaining balance of the appropriation."

Renumber: subsequent sections

17. Page 22, line 6.

Following: "(1)"

Strike: "There is"

Insert: "By August 15, 2009, there must be"

18. Page 22, line 9.

Following: "(2)"

Strike: "There is"

Insert: "By August 15, 2009, there must be"

19. Page 22.

Following: line 10

Insert: "(3) There is transferred \$300,000 from the junk vehicle fund as authorized in 75-10-532 to the natural resources operations state special revenue account established in 15-38-301."

20. Page 22, line 15.

Strike: "16"

Insert: "26"

21. Page 22, line 16.

Strike: "16"

Insert: "26"

22. Page 22, line 20.

Strike: "Retroactive applicability"

Insert: "Applicability"

Following: "applicability."

Insert: "(1)"

23. Page 22.

Following: line 21

Insert: "(2) [Section 14] applies to school budgets for school fiscal years beginning on or after July 1, 2009."

24. Page 22, line 23.

Strike: "[Section 9] terminates"

Insert: "[Sections 9 through 11] terminate"

And, as amended, be concurred in. Report adopted.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 310**
Report No. 1, April 8, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 310** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 310** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Shockley, Chair
Laslovich

For the House:

Ingraham
Reichner
Sands

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 602**
Report No. 1, April 8, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 602** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 602** (reference copy -- salmon) be amended as follows:

1. Page 1, line 11.

Following: "~~vehicle,~~"

Insert: ", including a highway patrol vehicle,"

2. Page 2, line 20.

Strike: "OR"

Insert: ", "

Following: "~~patrol~~"

Insert: ", or the highway patrol"

3. Page 2, line 21.

Strike: subsection (3) in its entirety

For the House:

D. Brown
Cohenour
French
Washburn

For the Senate:

Brenden
Shockley
J. Tropila

MESSAGES FROM THE OTHER HOUSE

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Senate amendments to House bills concurred in: 4/8/2009

HB 318, introduced by Kottel

HB 384, introduced by Villa

HB 628, introduced by Stoker

HB 630, introduced by Sands

House joint resolutions passed and transmitted to the Senate for concurrence: 4/8/2009

HJR 31, introduced by McGillvray

HJR 34, introduced by McAlpin

HJR 35, introduced by Himmelberger

HB 531 - The House failed to concur in Senate amendments to **HB 531**. 4/8/2009

Senate bills concurred in and returned to the Senate: 4/8/2009

SB 198, introduced by Lewis

SB 350, introduced by Gillan

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments: 4/8/2009

SB 119, introduced by Esp

SB 348 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 348**:

4/8/2009

Representative Wilmer, Vice Chair

Representative Himmelberger

Representative Malek

Representative Mendenhall

Governor's amendments to House bill concurred in and returned to the Senate: 4/8/2009

HB 55, introduced by Hawk

FIRST READING AND COMMITMENT OF BILLS

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 31, introduced by McGillvray, J. Peterson, Bennett, Vance, Smith, referred to Judiciary.

HJR 34, introduced by McAlpin, Ingraham, Stoker, French, Smith, Sands, P. Noonan, B. Beck, Becker, Furey, Hunter, referred to Judiciary.

HJR 35, introduced by Himmelberger, referred to State Administration.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

SB 65, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Brenden, R. Brown, Hinkle, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 73 passed as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 47

Nays: Bales, McGee, Mr. President.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 108 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

SB 231, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Gebhardt.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 430, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 3 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 40

Nays: Balyeat, Branae, Cooney, Essmann, Hinkle, Jackson, Juneau, Moss, J. Tropila, Tutvedt.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Total 0

HB 4 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Essmann, Hinkle.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 8 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Hinkle, Juneau, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 12 failed as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Excused: None.
Total 0

HB 42 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 110 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Barkus, Brenden, R. Brown, Hinkle, Jackson, Steinbeisser.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 173 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 43

Nays: Balyeat, Essmann, Gallus, Lewis, Ripley, Steinbeisser, Zinke.
Total 7

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Excused: None.
Total 0

HB 228 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Zinke, Mr. President.
Total 40

Nays: Erickson, Hansen, Juneau, Kaufmann, Moss, Schmidt, Stewart-Peregoy, J. Tropila, Williams, Windy Boy.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 280 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 322, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Total 0

Excused: None.

Total 0

HB 333 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 356, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 583 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Barkus, R. Brown, Esp, Hinkle, Jackson, McGee, Shockley.

Total 8

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 622 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Brenden, Esp, Gebhardt, Ripley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 634 concurred in as follows:

Yeas: Balyeat, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 38

Nays: Bales, Barkus, Brenden, R. Brown, Esp, Gebhardt, Lewis, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator J. Tropila in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 2 - Senator Bales moved **HB 2** be concurred in.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Section A - General Government Appropriation Subcommittee, Senator Laible, Chair

HB 2 - Senator McGee moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 8.

Strike: "865,628 414,177" [general fund FY10 and FY11]

Insert: "748,544 292,657" [general fund FY10 and FY11]

2. Page B-6, following line 10.

Insert: "c. Mental Health Diversion (Restricted/Biennial)

"117,084 121,520" [general fund FY 10 FY11]

3. Page B-10, following line 2.

Insert: "Mental Health Diversion is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill No. 132 and may be used only to implement those bills."

Amendment adopted as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Hinkle, Jackson, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, J. Tropila, Tutvedt, Zinke, Mr. President.

Total 28

Nays: Bales, Branae, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Moss, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Zinke moved **HB 2**, second reading copy, be amended as follows:

1. Page A-11.

Following: line 18

Insert: "The line item for New Worker Training is to provide training funds for businesses to train and educate both new and existing employees, which will result in the retention and creation of high-wage and high-skilled jobs that will increase the earning potential and employment opportunities for Montana employees and enhance the state's economy. The line item for New Worker Training is intended to be implemented using a framework similar to that established under the Primary Sector Business Workforce Training Act provided for in Title 39, chapter 11, except that the New Worker Training appropriation line item is to be used to train and educate both new and existing employees."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser,

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Erickson, Juneau, Kaufmann, Squires, Wanzenried.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 21 through 22.
Strike: line 21 through line 22 in their entirety

Amendment **not** adopted as follows:

Yeas: Black, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 25

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Shockley excused at this time.

HB 2 - Senator Hinkle moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 6.
Strike: "6,787,778 7,100,735" [general fund FY 10 and FY 11]
Insert: "5,842,770 6,158,896" [general fund FY 10 and FY 11]

2. Page A-1, line 19.
Strike: "\$239,126 IN FISCAL YEAR 2010 AND \$239,125"
Insert: "\$1,184,134 in fiscal year 2010 and \$1,180,964"

3. Page A-2, line 12.
Strike: "2,461,531 2,463,759" [general fund FY 10 and FY 11]
Insert: "1,983,884 1,999,094" [general fund FY 10 and FY 11]

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

4. Page A-3, line 16.

Strike: "\$183,161 in fiscal year 2010 and \$183,161"

Insert: "\$660,808 in fiscal year 2010 and \$647,826"

5. Page A-4, line 6.

Strike: "437,570 435,075" [general fund FY 10 and FY 11]

Insert: "397,150 398,669" [general fund FY 10 and FY 11]

6. Page A-4, line 17.

Strike: "\$8,953 IN FISCAL YEAR 2010 AND \$8,952"

Insert: "\$49,373 in fiscal year 2010 and \$45,358"

7. Page A-7, line 5.

Strike: "20,046,388 20,119,209" [general fund FY 10 and FY 11]

Insert: "16,227,084 16,301,589" [general fund FY 10 and FY 11]

8. Page A-7.

Following: line 15

Insert: "Property Assessment Division includes unspecified reductions in general fund money of \$3,819,304 in fiscal year 2010 and \$3,817,256 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

9. Page A-8, line 6.

Strike: "2,100,067 2,131,697" [general fund FY 10 and FY 11]

Insert: "1,441,221 1,633,076" [general fund FY 10 and FY 11]

10. Page A-9, line 18.

Strike: "\$580,071 in fiscal year 2010 and \$580,071"

Insert: "\$1,238,917 in fiscal year 2010 and \$1,078,692"

11. Page A-12, line 3.

Strike: "737,193 737,571" [general fund FY 10 and FY 11]

Insert: "530,667 530,889" [general fund FY 10 and FY 11]

12. Page A-13, line 1.

Strike: "\$46,633 in fiscal year 2010 and \$46,633"

Insert: "\$253,159 in fiscal year 2010 and \$253,315"

13. Page A-13, line 10.

Strike: "529,240 529,818" [general fund FY 10 and FY 11]

Insert: "76,690 68,421" [general fund FY 10 and FY 11]

14. Page A-14, line 21.

Strike: "\$116,575 IN FISCAL YEAR 2010 AND \$116,575"

Insert: "\$569,125 in fiscal year 2010 and \$577,972"

Amendment **not** adopted as follows:

Yeas: Balyeat, Barkus, Brenden, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, McGee.

Total 9

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Nays: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 40

Absent or not voting: None.

Total 0

Excused: Shockley.

Total 1

Senator Shockley present at this time.

HB 2 - Senator Schmidt moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 10.

Strike: "1,823,930 1,864,034" [general fund FY 10 & FY 11]

Insert: "1,921,643 1,917,626" [general fund FY 10 & FY 11]

2. Page A-1, line 11 through line 12.

Strike: line 11 through line 12 in their entirety

3. Page A-2, line 1.

Strike: line 1 in its entirety

Insert: "If Senate Bill No. 460 is passed and approved, Fiscal Analysis and Review is reduced by \$97,713 general fund money in fiscal year 2010 and by \$53,592 general fund money in fiscal year 2011."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page A-4, line 6.

Strike: "437,570 435,075" [general fund FY 2010 and FY 2011]

Insert: "446,523 444,027" [general fund FY 2010 and FY 2011]

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

2. Page A-4.

Strike: line 17 through line 18 in their entirety

3. Page E-3, line 13.

Strike: "221,171 223,717" [general fund FY 2010 and FY 2011]

Insert: "225,711 228,257" [general fund FY 2010 and FY 2011]

4. Page E-3.

Strike: line 18 through line 19 in their entirety

5. Page E-4, line 19.

Strike: "458,925 456,702" [general fund FY 2010 and FY 2011]

Insert: "468,352 466,129" [general fund FY 2010 and FY 2011]

6. Page E-5.

Strike: line 6 through line 7 in their entirety

Amendment **not** adopted as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Cooney moved **HB 2**, second reading copy, be amended as follows:

1. Page A-1, line 8.

Strike: "865,628 414,177" [general fund FY10 and FY11]

Insert: "780,681 325,848" [general fund FY10 and FY11]

2. Page B-6.

Following: line 10

Insert: "c. Mental Health Diversion (Restricted/Biennial) 84,947 88,329" [general fund FY10 and FY11]

3. Page B-10.

Following: line 2

Insert: "Mental Health Diversion is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill No. 132 and may used only to implement those bills."

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Amendment **not** adopted as follows:

Yeas: Balyeat, Barrett, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gebhardt, Jackson, Juneau, Kaufmann, Laslovich, McGee, Perry, Peterson, Ripley, Shockley, Zinke, Mr. President.

Total 21

Nays: Bales, Barkus, Black, Branae, Brenden, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Keane, Laible, Larsen, Lewis, Moss, Murphy, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Gallus moved **HB 2**, second reading copy, be amended as follows:

1. Page A-2, line 5.

Strike: "1,376,585 1,387,560" [general fund FY10 and F11]

Insert: "1,751,585 1,762,560" [general fund FY10 and FY11]

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Liable moved to close Section A as amended. Motion carried.

Section B - Health and Human Services Appropriation Subcommittee, Senator Lewis, Chair

HB 2 - Senator Larsen moved **HB 2**, second reading copy, be amended as follows:

1. Page B-6, following line 1.

Insert: "e. Nonmedicaid Aging Community Services (Restricted/OTO)

1,000,000 1,000,000" [general fund FY10 and FY11]

Amendment **not** adopted as follows:

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 2 - Senator Williams moved **HB 2**, second reading copy, be amended as follows:

1. Page B-1, following line 22.

Insert: "e. Healthy Montana Kids (Restricted)"
"105,419 102,088" [state special fund FY10 and FY11]
"358,982 341,194" [federal special fund FY10 and FY11]

2. Page B-3, following line 11.

Insert: "b. Healthy Montana Kids (Restricted)"
"315,404 124,827" [state special fund FY10 and FY11]
"1,074,043 417,190" [federal special fund FY10 and FY11]

3. Page B-4.

Strike: line 19 in its entirety

Insert: "11,578,987 12,585,355" [state special fund FY10 and FY11]
"39,429,767 42,062,301" [federal special fund FY10 and FY11]

Amendment **not** adopted as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

HB 2 - Senator Brueggeman moved **HB 2**, second reading copy, be amended as follows:

1. Page B-6, line 17 through page B-8, line 8.

Strike: line 17 on page B-6 through line 8 on page B-8 in their entirety

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Laslovich, Wanzenried.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Jent excused at this time.

HB 2 - Senator Hinkle moved **HB 2**, second reading copy, be amended as follows:

1. Page B-4, line 6.

Strike: "119,398,495 127,982,185" [general fund FY10 and FY11]

Insert: "91,847,029 99,404,991" [general fund FY10 and FY11]

2. Page B-9,

Following: line 10

Insert: "Health Resources Division includes a reduction of \$27,551,466 in general fund money in fiscal year 2010 and a reduction of \$28,577,194 in general fund money in fiscal 2011. The department may allocate this reduction among divisions when developing 2011 biennium operating plans."

Amendment **not** adopted as follows:

Yeas: Balyeat, Barkus, Curtiss, Gebhardt, Hinkle, McGee, Shockley.
Total 7

Nays: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 42

Absent or not voting: None.
Total 0

Excused: Jent.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Total 1

Senator Jent present at this time.

HB 2 - Senator Kaufmann moved **HB 2**, second reading copy, be amended as follows:

1. Page B-1, line 5.

Strike: "199,038,960 207,258,400"[federal special fund FY 10 and FY 11]

Insert: "198,538,960 206,758,400"[federal special fund FY 10 and FY 11]

2. Page B-3, line 14.

Strike: "89,798,560 90,655,003" [federal special fund FY 10 and FY 11]

Insert: "90,298,560 91,155,003" [federal special fund FY 10 and FY 11]

Amendment **not** adopted as follows:

Yeas: Barrett, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Nays: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Windy Boy moved **HB 2**, second reading copy, be amended as follows:

1. Page B-2, line 2.

Strike: "32,979,790 34,177,913" [general fund FY 10 and FY 11]

Insert: "32,702,790 33,900,913" [general fund FY 10 and FY 11]

Strike: "27,596,106 28,578,012" [federal fund FY 10 and FY 11]

Insert: "26,609,106 27,591,012" [federal fund FY 10 and FY 11]

2. Page B-2.

Following: line 5

Insert: "a. Annualization of Tribal General Fund (Restricted)
277,000 277,000 [general fund FY 10 and FY 11]
987,000 987,000 [federal fund FY 10 and FY 11]"

3. Page B-8.

Following: line 19

Insert: "Funding in Annualization of Tribal General Fund may be expended only by the Child and Family Services

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Division for Title IV-E contracts with tribal governments."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Wanzenried moved **HB 2**, second reading copy, be amended as follows:

1. Page B-6, following line 10.

Insert: "c. Mental Health Diversion (Restricted/Biennial/OTO)
3,000,000" [state special fund FY10 and FY11]

2. Page B-10, following line 2.

Insert: "Mental Health Diversion is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill No. 132 and may be used only to implement those bills."

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Gallus excused at this time.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

HB 2 - Senator Kaufmann moved **HB 2**, second reading copy, be amended as follows:

1. Page B-5, line 4.

Strike: "(OTO)"

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

HB 2 - Senator Wanzenried moved **HB 2**, second reading copy, be amended as follows:

1. Page B-1, line 4.

Strike: "31,632,822 32,510,189"[general fund FY10 and FY11]

Insert: "31,786,696 32,676,590"[general fund FY10 and FY11]

Strike: "1,274,231"[state special fund FY10]

Insert: "1,275,836"[state special fund FY10]

2. Page B-1, line 5.

Strike: "199,038,960 207,258,400" [federal special fund FY10 and FY11]

Insert: "199,198,216 207,430,621" [federal special fund FY10 and FY11]

Strike: "1,275,963" [state special fund FY11]

Insert: "1,277,699" [state special fund FY11]

3. Page B-2, line 2.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Strike: "32,979,790 34,177,913"[general fund FY10 and FY11]

Insert: "33,173,859 34,388,266"[general fund FY10 and FY11]

Strike: "27,596,106 28,578,012"[federal special fund FY10 and FY11]

Insert: "27,705,270 28,696,336"[federal special fund FY10 and FY11]

4. Page B-2, line 10.

Strike: "1,741,420 3,174,109"[general fund FY10 and FY11]

Insert: "1,808,044 3,236,412"[general fund FY10 and FY11]

Strike: "5,654,298 5,672,394"[federal special fund FY10 and FY11]

Insert: "5,783,742 5,793,443"[federal special fund FY10 and FY11]

5. Page B-3, line 2.

Strike: "1,081,607 1,082,787"[state special fund FY10 and FY11]

Insert: "1,087,131 1,088,702"[state special fund FY10 and FY11]

Strike: "11,451,382 11,458,140"[federal special fund FY10 and FY11]

Insert: "11,489,624 11,498,973"[federal special fund FY10 and FY11]

6. Page B-3, line 3.

Strike: "4,265,432 4,271,133 "[general fund FY10 and FY11]

Insert: "4,292,126 4,299,765"[general fund FY10 and FY11]

7. Page B-3, line 13.

Strike: "4,566,174 4,566,702"[state special fund FY10 and FY11]

Insert: "4,572,803 4,573,801"[state special fund FY10 and FY11]

8. Page B-3, line 14.

Strike: "52,999,747 53,863,403" [general fund FY10 and FY11]

Insert: "53,086,001 53,955,767" [general fund FY10 and FY11]

Strike: "89,798,560 90,655,003"[federal special fund FY10 and FY11]

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Insert: "89,854,647 90,715,064"[federal special fund FY10 and FY11]

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 2 - Senator Schmidt moved **HB 2**, second reading copy, be amended as follows:

1. Page B-5, line 21.

Strike: "1,349,996 1,849,981" [general fund FY10 and FY11]
Insert: "1,170,996 1,539,981" [general fund FY10 and FY11]

2. Page B-6, following line 1.

Insert: "e. Assisted Living Facility Rate Increase (Restricted/OTO)
179,000 310,000" [general fund FY10 and FY11]
"580,291 731,695" [federal special fund FY10 and FY11]

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 42

Nays: Balyeat, Esp, Gebhardt, Hinkle, McGee, Shockley, Mr. President.
Total 7

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

HB 2 - Senator Schmidt moved **HB 2**, second reading copy, be amended as follows:

1. Page B-3, line 14.

Strike: "52,999,747 53,863,403" [general fund FY 10 and FY 11]

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Insert: "53,199,747 54,063,403" [general fund FY 10 and FY 11]

Amendment **failed** as follows:

Yeas: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

Senator Gallus present at this time.

HB 2 - Senator Laslovich moved **HB 2**, second reading copy, be amended as follows:

1. Page B-6.

Following: line 10

Insert: "c. Mental Health Diversion (Restricted/Biennial) 123,782 117,934" [general fund FY10 and FY11]

2. Page B-10.

Following: line 2

Insert: "Mental Health Diversion is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill 132 and may be used only to implement those bills."

3. Page D-1, line 5.

Strike: "9,446,335 9,485,644" [general fund FY10 and FY11]

Insert: "9,322,553 9,367,710" [general fund FY10 and FY11]

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Juneau, M. Tropila, Wanzenried.
Total 3

Absent or not voting: None.
Total 0

Excused: None.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Total 0

HB 2 - Senator Laslovich moved **HB 2**, second reading copy, be amended as follows:

1. Page B-6.

Following: line 10

Insert: "c. Mental Health Diversion (Restricted/Biennial) 102,485 97,369" [state special fund FY10 and FY11]

2. Page B-10.

Following: line 2

Insert: "Mental Health Diversion is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill 132 and may be used only to implement those bills."

3. Page D-3, line 12.

Strike: "1,728,684 1,724,016" [state special fund FY10 and FY11]

Insert: "1,626,199 1,626,647" [state special fund FY10 and FY11]

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: T. Brown, Erickson, Juneau, Tutvedt, Wanzenried.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Laslovich moved **HB 2**, second reading copy, be amended as follows:

1. Page B-6.

Following: line 10

Insert: "c. Mental Health Diversion (Restricted/Biennial) 560,327" [general fund FY11]

2. Page B-10.

Following: line 2

Insert: "Mental Health Diversion is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill 132 and may be used only to implement those bills."

3. Page D-1, line 16.

Strike: "24,005,185" [general fund FY11]

Insert: "23,444,858" [general fund FY11]

Amendment **not** adopted as follows:

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Yeas: Balyeat, Esp, Gallus, Hansen, Juneau, Keane, Larsen, Laslovich, McGee, Perry, Stewart-Peregoy, Windy Boy, Mr. President.

Total 13

Nays: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Kaufmann, Laible, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.

Total 37

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 2 - Senator Balyeat moved **HB 2**, second reading copy, be amended as follows:

1. Page B-6, line 10.

Insert: "C. Mental Health Diversion (Restricted/Biennial)

1,000,000 1,000,000" [state special fund FY 2010 and FY 2011]

2. Page B-10.

Following: line 2

Insert: "Mental Health Diversion is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill No. 132 and may be used only to implement those bills."

3. Page D-3, line 12.

Strike: "1,728,684 1,724,016" [state special fund FY 2010 and FY 2011]

Insert: "728,684 724,016" [state special fund FY 2010 and FY 2011]

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke.

Total 39

Nays: Brueggeman, Cooney, Erickson, Gillan, Hansen, Juneau, Kaufmann, Squires, Wanzenried, Williams, Mr. President.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Bales excused at this time.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Senator Lewis moved to close Section B. Motion carried.

Section C - Natural Resources Appropriation Subcommittee, Senator Ripley, Chair

Senator Bales excused at this time.

HB 2 - Senator Hinkle moved **HB 2**, second reading copy, be amended as follows:

1. Page C-3, line 13.

Strike: "2,946,271 2,951,476" [general fund FY10 and FY11]

Insert: "2,585,229 2,588,744" [general fund FY10 and FY11]

2. Page C-5.

Following: line 2

Insert: "Planning, Prevention, and Assistance Division includes a reduction in general fund money of \$361,042 in fiscal year 2010 and \$362,732 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing the 2011 biennium operating plans."

3. Page C-5, line 16.

Strike: "2,600,000" [general fund FY 10]

Insert: "2,418,000" [general fund FY 10]

4. Page C-7, line 21.

Strike: "468,310 475,057" [general fund FY10 and FY11]

Insert: "351,010 385,838" [general fund FY10 and FY11]

5. Page C-10.

Following: line 4

Insert: "Diagnostic Laboratory Program includes a reduction in general fund money of \$117,300 in fiscal year 2010 and \$89,219 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing the 2011 biennium operating plans."

6. Page C-10, line 7.

Strike: "1,989,142 2,034,058" [general fund FY10 and FY11]

Insert: "437,145 477,278" [general fund FY10 and FY11]

7. Page C-11, line 19.

Strike: "\$750,000 in fiscal year 2010 and \$750,000"

Insert: "\$2,301,997 in fiscal year 2010 and \$2,306,780"

8. Page C-12, line 15.

Strike: "133,640 136,916" [general fund FY10 and FY11]

Insert: "36,740 42,771" [general fund FY10 and FY11]

9. Page C-13

Following: line 17

Insert: "Central Management Division includes a reduction in general fund money of \$96,900 in fiscal year 2010 and \$94,145 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing the 2011 biennium operating plans."

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Amendment **not** adopted as follows:

Yeas: Balyeat, Black, Brenden, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, McGee.
Total 10

Nays: Barkus, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 39

Absent or not voting: None.
Total 0

Excused: Bales.
Total 1

HB 2 - Senator Ripley moved **HB 2**, second reading copy, be amended as follows:

1. Page C-5.

Following: line 7

Insert: "Permitting and Compliance Division includes a reduction in general fund money of \$535,866 in fiscal year 2010 and \$537,194 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

Amendment adopted as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Cooney, Erickson, Gallus, Juneau, Kaufmann, Schmidt, Wanzenried, Williams.
Total 8

Absent or not voting: None.
Total 0

Excused: Bales.
Total 1

Senator Ripley moved to close Section C. Motion carried.

Section D - Corrections Appropriation Subcommittee, Senator Brueggeman, Chair

HB 2 - Senator Black moved **HB 2**, second reading copy, be amended as follows:

1. Page D-8.

Following: line 16

Insert: "Secure Facilities includes \$215,349 in general fund money in fiscal year 2010 and \$430,697 in general fund

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

money in fiscal year 2011 that may be used only for provider rate increases for contracted beds operated by private for-profit providers."

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Hamlett, Hawks, Jackson, Jent, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 32

Nays: Balyeat, Cooney, Gallus, Gillan, Hansen, Hinkle, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Brueggeman moved to close Section D. Motion carried

Section E - Education Appropriation Subcommittee, Senator Barrett, Chair

Senator Esp excused at this time.

HB 2 - Senator Hawks moved **HB 2**, second reading copy, be amended as follows:

1. Page E-10.

Following: line 5

Insert: "The variable cost of education for each full-time equivalent student at the community colleges, including Summitnet, is \$2,194 for each year of the 2009 biennium. The general fund appropriation for OCHE--Community College Assistance (04) in [this act], the general fund appropriation for Community College Assistance (RST/OTO) in House Bill No. 645, and the federal special revenue appropriation for Community Colleges Tuition Mitigation in House Bill No. 645 provide 50.8% of the fixed cost of education plus 50.8% of the variable cost of education for each full-time equivalent student in fiscal year 2010 and 50.8% of the fixed cost of education plus 50.8% of the variable cost of education for each full-time equivalent student in fiscal year 2011. The remaining percentage of the budget must be paid from funds other than those appropriated in House Bill No. 2 or House Bill No. 645.

The sum of the general fund appropriation for OCHE--Community College Assistance (04) in [this act], the general fund appropriation for Community College Assistance (RST/OTO) in House Bill No. 645, and the federal special revenue appropriation for Community Colleges Tuition Mitigation in House Bill No. 645 is calculated to fund education in the community colleges for an estimated 2,434 resident FTE students in fiscal year 2010 and 2,535 resident FTE students in fiscal year 2011. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. If actual resident FTE student enrollment is less than the estimated number for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142."

Amendment **not** adopted as follows:

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: Esp.

Total 1

HB 2 - Senator M. Tropila moved **HB 2**, second reading copy, be amended as follows:

1. Page E-4, line 9.

Strike: "3,515,682 3,504,253" [general fund FY10 FY11]

Insert: "3,634,563 3,623,135" [general fund FY10 FY11]

2. Page E-4.

Strike: line 14 through line 15

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Jent excused at this time.

HB 2 - Senator Williams moved **HB 2**, second reading copy, be amended as follows:

1. Page E-6, line 7.

Strike: "1,087,870 1,103,458" [general fund FY10 FY11]

Insert: "1,142,087 1,157,675" [general fund FY10 FY11]

2. Page E-7.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Strike: line 5 through line 6

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Jent.
Total 1

HB 2 - Senator M. Tropila moved **HB 2**, second reading copy, be amended as follows:

1. Page E-3, line 22.

Strike: "450,627 446,985" [general fund FY10 FY11]

Insert: "474,555 470,952" [general fund FY10 FY11]

2. Page E-4, line 4.

Strike: "539,726 539,544" [general fund FY10 FY11]

Insert: "546,489 546,348" [general fund FY10 FY11]

3. Page E-4, line 6.

Strike: "1,307,141 1,311,561" [general fund FY10 FY11]

Insert: "1,357,817 1,362,382" [general fund FY10 FY11]

4. Page E-4, line 9

Strike: "3,515,682 3,504,253" [general fund FY10 FY11]

Insert: "3,664,760 3,653,385" [general fund FY10 FY11]

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Excused: Jent.
Total 1

Senator Jent present at this time.

HB 2 - Senator Hawks moved **HB 2**, second reading copy, be amended as follows:

1. Page E-1, line 13.

Strike: "528,979,895 529,951,539" [general fund FY10 FY11]

Insert: "542,840,430 554,799,681" [general fund FY10 FY11]

2. Page E-1, line 15.

Strike: " 1 1" [general fund FY10 FY11]

Insert: "5,000,000 5,000,000" [general fund FY10 FY11]

3. Page E-3, line 3.

Strike: "1%" in two places

Insert: "3%" in two places

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 2 - Senator Hinkle moved Amendment HB2-011 with Amendment # 5 segregated.

1. Page E-1, line 5.

Strike: "9,093,505 9,148,604" [general fund FY 2010 and FY 2011]

Insert: "7,729,479 7,776,313" [general fund FY 2010 and FY 2011]

2. Page E-3, line 1.

Strike: "\$185,838 EACH YEAR OF THE BIENNIUM"

Insert: "\$1,549,864 in fiscal year 2010 and \$1,558,129 in fiscal year 2011"

3. Page E-3, line 13.

Strike: "221,171 223,717" [general fund FY 2010 and FY 2011]

Insert: "187,995 190,159" [general fund FY 2010 and FY 2011]

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

4. Page E-3, line 18.

Strike: "\$4,540 EACH YEAR OF THE BIENNIUM"

Insert: "\$37,716 in fiscal year 2010 and \$38,098 in fiscal year 2011"

5. Page E-4, line 9.

Strike: "3,515,682 3,504,253" [general fund FY 2010 and FY 2011]

Insert: "3,367,129 3,356,274" [general fund FY 2010 and FY 2011]

6. Page E-4, line 14.

Strike: "\$118,881 EACH YEAR OF THE BIENNIUM"

Insert: "\$267,434 in fiscal year 2010 and \$266,860 in fiscal year 2011"

7. Page E-4, line 19.

Strike: "458,925 456,702" [general fund FY 2010 and FY 2011]

Insert: "388,858 388,197" [general fund FY 2010 and FY 2011]

8. Page E-5, line 6.

Strike: "\$9,427 EACH YEAR OF THE BIENNIUM"

Insert: "\$79,494 in fiscal year 2010 and \$77,932 in fiscal year 2011"

9. Page E-5, line 11.

Strike: "2,496,928 2,711,111" [general fund FY 2010 and FY 2011]

Insert: "2,088,400 2,304,444" [general fund FY 2010 and FY 2011]

10. Page E-5, line 20.

Strike: "\$55,456 EACH YEAR OF THE BIENNIUM"

Insert: "\$463,984 in fiscal year 2010 and \$462,123 in fiscal year 2011"

11. Page E-6, line 7.

Strike: "1,087,870 1,103,458" [general fund FY 2010 and FY 2011]

Insert: "688,028 706,311" [general fund FY 2010 and FY 2011]

12. Page E-7, line 5.

Strike: "\$54,217 EACH YEAR OF THE BIENNIUM"

Insert: "\$454,059 in fiscal year 2010 and \$451,364 in fiscal year 2011"

13. Page E-8, line 6.

Strike: "128,382,795 130,694,418" [general fund FY 2010 and FY 2011]

Insert: "128,003,862 130,319,855" [general fund FY 2010 and FY 2011]

14. Page E-11, line 10.

Strike: "\$3,612,195 IN FISCAL YEAR 2010 AND \$3,612,194"

Insert: "\$3,991,128 in fiscal year 2010 and \$3,986,757"

Amendment **not** adopted as follows:

Yeas: Balyeat, Black, Esp, Essmann, Gebhardt, Hinkle, Jackson, Windy Boy.

Total 8

Nays: Bales, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson,

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 2 - Senator Schmidt moved **HB 2**, second reading copy, be amended as follows:

1. Page E-8, line 13.

Following: "PLAN"

Insert: "(OTO)"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Brenden.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Barrett moved to close Section E. Motion carried.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hinkle, Jackson, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Branae, Cooney, Erickson, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laslovich, Moss, Squires, J. Tropila, M. Tropila, Wanzenried.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

HB 2 - Senator Bales moved **HB 2**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 26

Nays: Balyeat, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Tropila moved the Committee of the Whole report be adopted. Report adopted unanimously.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/9/2009

HB 128, be amended as follows:

1. Page 2, line 24.

Following: "to the"

Insert: "legislative finance committee and to the"

And, as amended, be concurred in. Report adopted.

HB 152, be amended as follows:

1. Title, page 1, line 8.

Strike: "CRITERIA AND PRIORITIES"

Insert: "AN EQUITABLE FORMULA"

2. Page 2, line 2.

Strike: "; and"

Insert: "."

3. Page 2, line 3 through line 7.

Strike: line 3 through line 7 in their entirety

4. Page 2, line 11.

Strike: "9"

Insert: "8"

5. Page 2, line 14.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Strike: "9"

Insert: "8"

6. Page 3, line 1.

Strike: "9"

Insert: "8"

7. Page 3, line 22.

Strike: "9"

Insert: "8"

8. Page 3, line 30 through page 4, line 1.

Strike: subsections (a) and (b) in their entirety

Renumber: subsequent subsections

9. Page 4, line 4 through line 6.

Strike: subsection (d) in its entirety

Renumber: subsequent subsections

10. Page 4, line 9.

Following: "grants" on line 9

Strike: ", "

11. Page 4, line 9 through line 11.

Strike: "rules adopted" on line 9 through "requirements of" on line 11

Insert: "the formula provided for in"

12. Page 4, line 17 through line 19.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

13. Page 4, line 20.

Strike: "(a)"

Following: "shall"

Insert: "ensure that the grants appropriated by the legislature satisfy the conditions described in [section 7]."

14. Page 4, line 20 through line 28.

Strike: ":" on line 20 through "." on line 28

15. Page 4, line 30 through page 5, line 26.

Strike: section 6 in its entirety

Insert: "NEW SECTION. Section 6. Formula for funding school facility projects. Every school district in the state of Montana must receive funding from the quality schools facility grant program for the 2011 biennium only. Based on the total money available to the program and on the total number of quality educators in public school districts statewide, a school district must receive quality schools facility grant funding prorated to the number of quality educators in the district."

16. Page 5, line 30 through page 6, line 3.

Strike: subsections (1) and (2) in their entirety

Renumber: subsequent subsections

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

17. Page 6, line 11 through line 12.

Strike: subsection (6) in its entirety

18. Page 6, line 14 through line 22.

Strike: section 8 in its entirety

Renumber: subsequent sections

19. Page 6, line 25.

Strike: "9"

Insert: "8"

Following: "not limited to"

Strike: "rules regarding:"

Insert: "guidelines for using funds and for reporting on projects accomplished."

20. Page 6, line 26 through page 7, line 8.

Strike: subsections (1) through (6) in their entirety

21. Page 7, line 11.

Following: "only,"

Strike: "after receiving and evaluating proposals,"

22. Page 7, line 12.

Strike: "may"

Insert: "shall"

23. Page 7, line 15.

Strike: "8"

Insert: "7"

Strike: "9"

Insert: "8"

24. Page 9, line 22.

Strike: "and"

25. Page 9, line 23.

Following: "77-4-208"

Insert: "; and

(d) interest and income earned on money in the account"

26. Page 11, line 8.

Strike: "9"

Insert: "8"

27. Page 11, line 10.

Strike: "9"

Insert: "8"

28. Page 11, line 20.

Strike: "18"

Insert: "17"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

And, as amended, be concurred in. Report adopted.

HB 645, be amended as follows:

1. Title, line 10.

Following: "CYCLE;"

Insert: "CLARIFYING THE PAYMENT OF SCHOOL DISTRICT EMPLOYEE RETIREMENT COSTS FOR THE ENSUING BIENNIUM;"

2. Title, line 16.

Following: "PROGRAM;"

Insert: "PROVIDING FOR THE ALLOCATION AND AUTHORIZATION OF THE TYPES OF BONDS MADE AVAILABLE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009; AUTHORIZING THE MONTANA FACILITY FINANCE AUTHORITY TO FINANCE CERTAIN PROJECTS FOR FOR-PROFIT OR NONPROFIT CORPORATIONS AND ORGANIZATIONS; PROVIDING FOR TAXATION OF THOSE PROJECTS; PROVIDING FOR THE DISTRIBUTION OF FUNDS FOR IMPROVEMENTS FOR SCHOOL FACILITIES; AUTHORIZING A PERMISSIVE SCHOOL LEVY FOR THE BASE BUDGET; AUTHORIZING A SCHOOL DISTRICT LEVY FOR THE OVER-BASE BUDGET; ESTABLISHING THE ENERGY DEVELOPMENT AND DEMONSTRATION GRANT PROGRAM;"

3. Title, line 17.

Following: "2-4-306,"

Insert: "7-7-2255, 7-7-2501, 7-7-4255, 7-7-4421, 7-7-4501, 7-12-2171, 7-15-4290, 7-15-4301, 7-15-4302,"

Following: "17-2-124,"

Insert: "17-5-504, 17-5-803, 17-5-922, 17-5-1506,"

Following: "17-7-502,"

Insert: "20-9-403, 20-9-433, 20-9-501, 20-25-402,"

4. Title, line 18.

Strike: "AND"

Following: "90-1-204,"

Insert: "90-5-101, 90-5-103, 90-7-102, AND 90-7-104,"

5. Page 3.

Following: line 15

Insert: "Section 2. Section 7-7-2255, MCA, is amended to read:

"7-7-2255. Form and execution of bonds. (1) At the time of the sale of the bonds or at a meeting held after the sale, the board of county commissioners shall adopt a resolution providing for the issuance of the bonds, prescribing the form of the bonds, whether amortization bonds or serial bonds, ~~and~~ providing the manner of execution of the bonds, and if applicable, specifying whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45].

(2) Each county bond and each coupon attached to the bond must be signed by or bear the facsimile signatures of the presiding officer of the board of county commissioners and the county treasurer and must be attested by the county clerk, provided that one signature of a county official or the bond registrar must be a manual signature. Each bond may have the county seal or its facsimile imprinted on the bond.""

Insert: "Section 3. Section 7-7-2501, MCA, is amended to read:

"7-7-2501. Authority to issue revenue bonds -- refunding revenue bonds. (1) A county may issue county revenue bonds in the same manner and with the same effect as provided in chapter 7, part 44, of this title for issuance

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

of municipal revenue bonds. County revenue bonds may be issued to finance any project or activity enumerated in chapter 16, part 21, of this title or in Title 75, chapter 10, part 1. Revenue from the project for which the bonds are issued is the only revenue upon which a lien under the provisions of 7-7-4431 may apply. A lien may not attach to other revenue or other property within the county.

(2) A county may refund revenue bonds issued under the authority provided in subsection (1) by the method provided in either part 45 or part 46 of chapter 7.

(3) In construing, for purposes of this section, the provisions of parts 44, 45, or 46 of chapter 7, "municipal" is considered to refer to the county and "governing body" is considered to refer to the board of county commissioners whenever the board of county commissioners is acting pursuant to subsection (1).

(4) If applicable, the county shall specify whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45]."

Insert: "Section 4. Section 7-7-4255, MCA, is amended to read:

"7-7-4255. Form and execution of bonds. (1) At the time of the sale of the bonds or at a meeting held after the sale, the city or town council shall adopt a resolution providing for the issuance of the bonds, prescribing the form of the bonds, whether amortization or serial bonds, ~~and~~ providing the manner of execution of the bonds, and if applicable, specifying whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45].

(2) Each bond and each coupon attached to a bond must be signed by or bear the facsimile signatures of the mayor and the treasurer of the city or town and must be attested by the city or town clerk, provided that one signature of a city or town official or the bond registrar must be a manual signature. Each bond may have the city or town seal or its facsimile imprinted on the bond."

Insert: "Section 5. Section 7-7-4421, MCA, is amended to read:

"7-7-4421. Authority to issue revenue bonds. (1) In addition to the powers ~~which~~ that it may now have, any municipality ~~shall have~~ has power under this part to:

(~~1~~)(a) issue its bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking;

(~~2~~)(b) pledge to the punctual payment of ~~said~~ the bonds issued under ~~this part or~~ part 45 or this part and interest ~~thereon on the bonds~~ an amount of the revenues revenue of such the undertaking, ~~(including improvements, betterments, or extensions thereto~~ thereafter constructed or acquired), or of any part of ~~such the~~ such the undertaking sufficient to pay ~~said the~~ the bonds and interest as ~~the same shall become~~ they become due, with ~~such an~~ such an amount consisting of all or any part or portion of ~~such the~~ such the revenue, and create and maintain reasonable reserves ~~therefor for~~ for the bonds.

(2) If applicable, the municipality shall specify whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45]."

Insert: "Section 6. Section 7-7-4501, MCA, is amended to read:

"7-7-4501. Authority to issue refunding revenue bonds. (1) In addition to the powers ~~which~~ that it ~~now~~ may have, any municipality ~~shall have~~ has the power under this part to refund bonds issued for any of the purposes listed in 7-7-4421(1)(a), whether issued under authority of part 45 or of any other applicable law.

(2) Refunding revenue bonds issued as authorized in this section ~~shall be~~ are governed by all of the provisions of part 44, except 7-7-4433 and 7-7-4434, as fully as bonds issued for the initial financing of any undertaking and by the further provisions of this part.

(3) Bonds may be issued to refund interest as well as principal actually due and payable if the ~~revenues~~ revenue pledged ~~therefor are~~ is not sufficient, but not to refund any bonds or interest due ~~which can~~ that may be paid from ~~revenues revenue~~ revenue then on hand."

Insert: "Section 7. Section 7-12-2171, MCA, is amended to read:

"7-12-2171. Details relating to rural improvement district bonds and warrants. (1) (a) The bonds and warrants must be drawn against either the construction or maintenance fund created for the special improvement

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

district and must bear interest from the date of registration until called for redemption or paid in full. Bonds or warrants sold at a private, negotiated sale may bear interest at a rate varying periodically at the time or times and on the terms determined by the board of county commissioners. The terms determined by the board of county commissioners may include the establishment of a maximum rate of interest or the convertibility to a fixed rate of interest.

(b) Variable rate bonds may be sold at a private negotiated sale if the principal amount of the bonds is \$500,000 or less and the board of county commissioners obtains separate written opinions from underwriters of Montana rural improvement district bonds stating the bonds are not marketable through a competitive bond sale. Bonds sold in principal amounts below \$250,000 do not require a marketability opinion.

(c) The interest must be payable annually or semiannually, at the discretion of the board of county commissioners, on the dates that the board prescribes. The warrants or bonds must bear the signatures of the presiding officer of the board and the county clerk and may bear the corporate seal of the county. The warrants or bonds must be registered in the office of the county clerk and the county treasurer, and if interest coupons are attached to the warrants or bonds, the interest coupons must also be registered and must bear the signatures of the presiding officer of the board and the county clerk. The coupons may bear the facsimile signatures of the officers in the discretion of the board.

(2) The bonds must be in denominations of \$100 or fractions or multiples of \$100, may be issued in installments, and may extend over a period not to exceed 30 years. However, if federal loans are available for improvements, repayment may extend over a period not to exceed 40 years. For the purposes of this subsection, the term of a bond issue commences on July 1 of the fiscal year in which the county first levies to pay principal and interest on the bonds.

(3) If applicable, the board of county commissioners shall specify whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45]."

Insert: "Section 8. Section 7-15-4290, MCA, is amended to read:

"7-15-4290. Use of property taxes and other revenue for payment of bonds. (1) (a) The tax increment derived from an urban renewal area may be pledged for the payment of revenue bonds issued for urban renewal projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs described in 7-15-4288 and 7-15-4289.

(b) The tax increment derived from an industrial district may be pledged for the payment of revenue bonds issued for industrial infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay industrial district costs described in 7-15-4288 and 7-15-4289.

(c) The tax increment derived from a technology district may be pledged for the payment of revenue bonds issued for technology infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay technology district costs described in 7-15-4288 and 7-15-4289.

(2) A municipality issuing bonds pursuant to subsection (1) may, by resolution of its governing body, enter into a covenant for the security of the bondholders, detailing the calculation and adjustment of the tax increment and the taxable value on which it is based and, after a public hearing, pledging or appropriating other revenue of the municipality, except property taxes prohibited by subsection (3), to the payment of the bonds if collections of the tax increment are insufficient.

(3) Property taxes, except the tax increment derived from property within the area or district and tax collections used to pay for services provided to the municipality by a project, may not be applied to the payment of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged.

(4) If applicable, the municipality shall specify whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45]."

Insert: "Section 9. Section 7-15-4301, MCA, is amended to read:

"7-15-4301. Authorization to issue urban renewal bonds, industrial infrastructure development bonds, aerospace transportation and technology infrastructure development bonds, technology infrastructure development bonds, and refunding bonds. (1) A municipality may:

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

(a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal project, industrial infrastructure development project, aerospace transportation and technology infrastructure development project, or technology infrastructure development project under part 42 and this part, including, without limiting the generality of projects, the payment of principal and interest upon any advances for surveys and plans for the projects; and

(b) issue refunding bonds for the payment or retirement of bonds previously issued by it.

(2) The bonds may not pledge the general credit of the municipality and must be made payable, as to both principal and interest, solely from the income, proceeds, revenue, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects, industrial infrastructure development projects, aerospace transportation and technology infrastructure development projects, or technology infrastructure development projects under part 42 and this part, including the tax increment received and pledged by the municipality pursuant to 7-15-4282 through 7-15-4292, and, if the income, proceeds, revenue, and funds of the municipality are insufficient for the payment, from other revenue of the municipality pledged to the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects, industrial infrastructure development projects, aerospace transportation and technology infrastructure development projects, or technology infrastructure development projects of the municipality under part 42 and this part or by a mortgage on all or part of any projects.

(3) Bonds issued under this section must be authorized by resolution or ordinance of the local governing body.

(4) If applicable, the governing body of the municipality shall specify whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45]."

Insert: "Section 7-15-4302, MCA, is amended to read:

"7-15-4302. Authorization to issue general obligation bonds. (1) For the purpose of 7-15-4267 or for the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project or an industrial infrastructure development project of a municipality, the municipality, in addition to any authority to issue bonds pursuant to 7-15-4301, may issue and sell its general obligation bonds.

(2) Any bonds issued pursuant to this section ~~shall~~ must be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by ~~such~~ the municipality for public purposes generally.

(3) Aiding in the planning, undertaking, or carrying out of an approved urban renewal project or an industrial infrastructure development project is considered a single purpose for the issuance of general obligation bonds, and the proceeds of the bonds authorized for any ~~such~~ project may be used to finance the exercise of any and all powers conferred upon the municipality by ~~this part and part 42 which and this part that~~ are necessary or proper to complete the project in accordance with the approved plan or industrial district ordinance and any modification ~~thereof of the plan~~ duly adopted by the local governing body.

(4) If applicable, the municipality shall specify whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45]."

Renumber: subsequent sections

6. Page 6, line 1.

Insert: "Section 14. Section 17-5-504, MCA, is amended to read:

"17-5-504. Forms, interest, and maturity. ~~Such~~ General obligation highway bonds shall ~~must~~ be issued by the board, upon request of the department of administration, in ~~such~~ the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with ~~such~~ provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of definitive bonds, bearing interest, maturing at ~~such~~ times not exceeding 20 years from the date of issue, subject to redemption at ~~such~~ earlier times and prices and upon ~~such~~ notice, and payable at the office of ~~such~~ the fiscal agent of the state, ~~as~~ that the board shall

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

determine, subject to the limitations contained ~~herein~~ in this part. If applicable, the board shall specify whether the bonds are tax credit bonds as provided in [section 43].""

Insert: "Section 15. Section 17-5-803, MCA, is amended to read:

"17-5-803. Form -- principal and interest -- fiscal agent -- bond registrar and transfer agent -- deposit of proceeds. (1) Subject to the limitations contained in this part and in the bond act and in the furtherance of each bond act, bonds may be issued by the board upon request of the department. The bonds may be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with provisions for conversion or exchange, and for the issuance of temporary bonds bearing interest at a rate or rates, maturing at times not exceeding 30 years from date of issue, subject to redemption at earlier times and prices and on notice, and payable at the office of the fiscal agency of the state as the board determines.

(2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Action taken by the board under this part must be by a majority vote of its members. The state treasurer shall keep a record of all bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(4) The board, in its discretion, is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available for these purposes in the general fund or from the proceeds of the bonds.

(5) All proceeds of bonds and notes issued under this part must be deposited in the capital projects account, except that any premiums and accrued interest received and the proceeds of refunding bonds or notes must be deposited in the debt service account.

(6) If applicable, the board shall specify whether the bonds are tax credit bonds as provided in [section 43].""

Insert: "Section 16. Section 17-5-922, MCA, is amended to read:

"17-5-922. Form -- principal and interest -- fiscal agent -- bonds authorized. (1) Each series of bonds may be issued by the board at public or private sale, in ~~such the~~ denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with ~~such~~ provisions for the conversion or exchange, bearing interest at ~~such the~~ rate or rates or the method of determining ~~such the~~ rate or rates, maturing at ~~such~~ times, not more than 40 years from date of issue, subject to redemption at ~~such~~ earlier times and prices and upon ~~such~~ notice, and payable at the office of a fiscal agency of the state ~~as that~~ the board shall determine, subject to the limitations contained in this part. Any action taken by the board under this part must be approved by at least a majority vote of its members.

(2) In all other respects the board is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Bonds and any interest coupons appurtenant ~~thereto~~ to the bonds must be signed by the members of the board, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all ~~such~~ bonds issued and sold.

(4) The board may employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(5) In connection with the issuance and sale of bonds, the board may arrange for lines of credit or letters of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for bonds issued pursuant to this part. Amounts drawn on ~~such~~ lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing ~~such~~ terms and conditions ~~as that~~ the board may authorize in the resolution approving the ~~same notes or evidences of indebtedness~~.

(6) ~~No~~ Not more than \$150 million of bonds issued under this part may be outstanding at any time. ~~No additional~~ Additional bonds, other than refunding bonds, may not be issued until the pledge in favor of the highway revenue bonds is satisfied and discharged.

(7) If applicable, the board shall specify whether the bonds are tax credit bonds as provided in [section

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

43]."

Insert: "Section 17. Section 17-5-1506, MCA, is amended to read:

"17-5-1506. Bonds and notes for projects and major projects. (1) The board may by resolution issue negotiable notes and bonds in a principal amount as that the board determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board, establishment of reserves to secure the notes and bonds, including the reserve funds created under 17-5-1515, and all other expenditures of the board incident to and necessary or convenient to carry out this part.

(2) The board may by resolution, from time to time, issue notes to renew notes and bonds or to pay notes, including interest, and whenever it considers refunding expedient, refund any bonds by the issuance of new bonds, whether or not the bonds to be refunded have matured, or issue bonds partly to refund bonds outstanding and partly for any of its other purposes.

(3) Except as otherwise expressly provided by resolution of the board, every issue of its bonds is an obligation of the board payable out of any revenue, assets, or money of the board, subject only to agreements with the holders of particular notes or bonds pledging particular ~~revenues~~ revenue, assets, or money.

(4) The notes and bonds must be authorized by resolutions of the board, bear a date, and mature at the times the resolutions provide. A note may not mature more than 5 years from the date of its issue. A bond may not mature more than 40 years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments, as term bonds, or as a combination ~~thereof~~ of serial and term bonds. The notes and bonds must bear interest at a stated rate or rates or at a rate or rate determination as stated, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at places inside or outside the state, and be subject to terms of redemption as provided in resolutions. The notes and bonds of the board may be sold at public or private sale, at prices above or below par, as determined by the board, and in a manner ~~such~~ that interest on the bonds is either exempt from or subject to federal income tax. If applicable, the board shall specify whether the bonds are tax credit bonds as provided in [section 43].

(5) The bonds issued under this part are exempt from the Montana Securities Act, but copies of all prospectus and disclosure documents must be deposited with the state securities commissioner for public inspection.

(6) The total amount of bonds secured under 17-5-1515 outstanding at any one time, except bonds as to which the board's obligations have been satisfied and discharged by refunding or bonds for which reserves for payment or other means of payment have been provided, may not exceed \$100 million."

Renumber: subsequent sections

7. Page 6, line 17.

Strike: "51"

Insert: "81"

8. Page 7, line 14.

Strike: "51"

Insert: "81"

9. Page 12, line 11.

Strike: "23"

Insert: "52"

10. Page 13.

Following: line 5

Insert: "Section 21. Section 20-9-403, MCA, is amended to read:

"20-9-403. Bond issues for certain purposes. (1) The trustees of a school district may issue and negotiate general obligation bonds or impact aid bonds of the school district for the purpose of:

(a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of buildings for school

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

purposes;

- (b) buying a school bus or buses;
 - (c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;
 - (d) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds;
 - (e) funding a judgment against the district, including the repayment of tax protests lost by the district; or
 - (f) funding a debt service reserve account that may be required for impact aid revenue bonds.
- (2) Money realized from the sale of bonds issued on the credit of a high school district may not be used for any of the purposes listed in subsection (1) in an elementary school district, and the money may be used for any of the purposes listed in subsection (1) for a junior high school but only to the extent that the 9th grade of the high school is served.

(3) If applicable, the trustees shall specify whether the bonds are qualified school construction bonds as described in [section 42(1)] or tax credit bonds as provided in [section 43]."

Insert: "Section 22. Section 20-9-433, MCA, is amended to read:

"20-9-433. Form and execution of school district bonds. (1) At the time of the sale of the bonds or at a meeting held after the sale, the trustees shall adopt a resolution or indenture of trust providing for the issuance of the bonds, prescribing the form of the bonds, whether amortization or serial bonds, and prescribing the manner of execution of the bonds. If applicable, the trustees shall specify whether the bonds are qualified school construction bonds as described in [section 42(1)] or tax credit bonds as provided in [section 43]."

(2) Each bond and coupon attached to a bond must be signed by or bear the facsimile signatures of the presiding officer of the trustees and the school district clerk, provided that one signature of a school official or the bond registrar must be a manual signature."

Insert: "Section 23. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement costs and retirement fund. (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:

(i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;

(ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321, or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the medicaid program, pursuant to 53-6-101;

(iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; ~~and~~

(iv) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514; and

(v) for the 2011 biennium only, a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are budgeted in the district general fund but are paid from state fiscal stabilization funds received pursuant the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

(b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the funding source that pays the employee's salary.

(3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(4) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

- (a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:
 - (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year;
 - (ii) oil and natural gas production taxes;
 - (iii) coal gross proceeds taxes under 15-23-703;
 - (iv) countywide school retirement block grants distributed under 20-9-631;
- (v) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

- (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(5) The county superintendent shall:

- (a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

- (b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(6) The county commissioners shall fix and set the county levy or district levy in accordance with 20-9-142.

(7) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(8) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(9) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (5)(a) by the sum of:

- (a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

- (b) the taxable valuation of the district divided by 1,000.

(10) The levy for a community college district may be applied only to property within the district.

(11) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements for county school funds supporting elementary and high school district retirement obligations

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction."

Insert: "NEW SECTION. Section 24. Permissive levy. If an appropriation for a 3% increase in the basic entitlement and per-ANB entitlement in each fiscal year is contained in [section 81], then a school district may impose a permissive levy, calculated in accordance with 20-9-141, to fund the local share of the BASE budget."

"NEW SECTION. Section 25. Over-BASE budget levy. If an appropriation for a 3% increase in the basic entitlement and per-ANB entitlement in each fiscal year is contained in [section 81], then a district may impose an over-BASE budget levy, calculated in accordance with 20-9-141, to fund the over-BASE budget. Districts shall comply with voting requirements as provided in 20-9-353.

Insert: "Section 26. Section 20-25-402, MCA, is amended to read:

"20-25-402. Borrowing by regents. (1) In carrying out the powers provided in 20-25-107, 20-25-301, and 20-25-302, the regents may:

(1)(a) borrow money for any purpose or purposes stated in parts 3 and 4 of this chapter, including, if considered desirable by the regents, the payment of interest on the money borrowed for a facility during the construction thereof of the facility and for 1 year thereafter after construction and the creation of a reserve for the payment of bond principal and interest;

(2)(b) make purchases on a time or installment basis;

(3)(c) issue bonds, notes, and other securities, negotiable or otherwise, secured as provided in this section, including bearer bonds with appurtenant interest coupons, which ~~shall~~ must be fully negotiable notwithstanding any limitation on the source of payment thereof of the bonds, notes, or securities, or fully registered bonds or bonds registered as to ownership of principal only;

(4)(d) pledge for the payment of the purchase price of any facility or of the principal and interest on bonds, notes, or other securities authorized in this chapter or otherwise obligate:

(a)(i) the net income received from rents, board, or both in housing, food service, and other facilities;

(b)(ii) receipts from student building, activity, union, and other special fees prescribed by the regents for all students; and

(c)(iii) (A) other income in the form of gifts, bequests, contributions, or federal grants of funds, including the proceeds or income from grants of lands or other real or personal property;

(B) receipts from athletic and other contests, exhibitions, and performances; and

(C) collections of admissions and other charges for the use of facilities, including all use by other persons, firms, and corporations for athletic and other contests, exhibitions, and performances and for the conduct of their business, educational, or governmental functions;

(5)(e) make payments on loans or purchases from any other available income not obligated for those purposes, including receipts from sale of materials, equipment, and fixtures of the facilities or from sales of the facilities themselves, other than land;

(6)(f) secure any bonds authorized ~~hereunder~~ under this section by a trust indenture between the regents and any bank or trust company within or ~~without~~ outside of the state of Montana or by a resolution establishing covenants of the regents with the holders of ~~such~~ the bonds relating to:

(a)(i) the construction, operation, use, and insurance of the facilities;

(b)(ii) the segregation, expenditure, and audit of accounts of the bond proceeds and of the income pledged;

(c)(iii) the establishment and collection of rents, charges, admissions, and fees sufficient to provide net income adequate for prompt payment of principal and interest on bonds and creation and maintenance of reserves for that purpose; and

(d)(iv) ~~such~~ other matters ~~as~~ that the regents may determine to be necessary or desirable for the security and marketability of the bonds;

(7)(g) subject to the following provisions, issue and sell or exchange bonds, secured as provided in this section, for the refunding of any outstanding bonds or other obligations issued by the regents ~~before or after January 29, 1971, subject to the following provisions~~:

(a)(i) refunding bonds may, with the consent of the holders of the bonds to be refunded ~~thereby~~, be exchanged at par plus accrued interest for all or part of ~~such~~ the bonds or may be sold at a price not less than par plus accrued interest. They may be secured by a pledge of the same revenue as the bonds refunded or by a pledge

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

of different or additional revenues received at the same unit of the university. ~~Nothing herein shall~~ This subsection (1)(g) may not require the holder of any outstanding bond to accept payment ~~thereof of the bond~~ or the delivery of a refunding bond in exchange ~~therefor for the bond~~, except in accordance with the terms of the outstanding bond. Bonds may be issued to refund interest as well as principal actually due and payable if the ~~revenues~~ revenue pledged ~~therefor for the bonds~~ are not sufficient, but not to refund any bonds or interest due ~~which that~~ can be paid from ~~revenues~~ revenue then on hand.

~~(b)(ii)~~ (b)(ii) refunding bonds may bear interest at a rate lower or higher than the bonds refunded ~~thereby by the~~ refunding bonds if they are issued to refund matured principal or interest for the payment of which ~~revenues~~ revenue on hand ~~are is~~ not sufficient ~~or if they are issued to refund before maturity bonds issued before January 1, 1965,~~ for the purpose of releasing ~~revenues~~ revenue required for payment of the outstanding bonds permitting the pledge ~~thereof of the revenue~~ for the security of other bonds as well as the refunding bonds, subject to the rights of the holders of the outstanding bonds until those bonds are fully paid and redeemed. Except as authorized in the preceding sentence, refunding bonds ~~shall may~~ not be issued unless their average annual interest rate, computed to their stated maturity dates and excluding any premium from ~~such the~~ computation, is at least 3/8 of 1% less than the average annual interest rate on the bonds refunded ~~thereby~~, computed to their respective stated maturity dates.

~~(c)(iii)~~ (c)(iii) in any case ~~where in which~~ refunding bonds are issued and sold 6 months or more before the earliest date on which all bonds refunded ~~thereby by the~~ refunding bonds mature or are prepayable in accordance with their terms, the proceeds of the refunding bonds, including any premium and accrued interest, ~~shall must~~ be deposited in escrow with a suitable bank or trust company having its principal place of business within or ~~without~~ outside of the state, which is a member of the federal reserve system and has a combined capital and surplus of not less than \$1 million, and ~~shall must~~ be invested in the amount and in securities maturing on the dates and bearing interest at the rates ~~which that~~ will be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable, to the earliest prior date upon which the bond may be called for redemption from the proceeds of the refunding bonds and to pay and redeem the principal amount of each bond at maturity or, if prepayable, on that redemption date and any premium required for redemption on that date. The resolution or indenture authorizing the refunding bonds ~~shall must~~ irrevocably appropriate for these purposes the escrow fund and all income ~~therefrom from the escrow fund~~ and ~~shall must~~ provide for the call of all prepayable bonds in accordance with their terms. The securities to be purchased with ~~such the~~ escrow funds ~~shall must~~ be limited to general obligations of the United States, securities ~~whose for which~~ principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: including only banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. The securities ~~shall must~~ be purchased simultaneously with the delivery of the refunding bonds.

~~(d)(iv)~~ (d)(iv) ~~revenues~~ revenue or other funds on hand, in excess of the amount pledged by resolutions or indentures authorizing outstanding bonds for the payment of principal and interest currently due ~~thereon on the~~ outstanding bonds and reserves securing ~~such the~~ payment, may be used to pay the expenses incurred by the regents for the purpose of refunding, including but without limitation the cost of advertising and printing refunding bonds, legal and financial advice and assistance in connection ~~therewith with~~ refunding the bonds, and the reasonable and customary charges of escrow agents and paying agents. ~~Revenues~~ Revenue and other funds on hand, including reserves pledged for the payment and security of outstanding revenue bonds, may be deposited in an escrow fund created for the retirement of those bonds and may be invested and disbursed as provided in subsection ~~(7)(c) hereof~~ (1)(g)(iii) to the extent consistent with the resolutions or indentures authorizing ~~such the~~ outstanding bonds.

~~(8)(h)~~ (8)(h) sell bonds and sell or exchange refunding bonds issued ~~hereunder under~~ this section in the manner and upon the terms as to maturities, interest rates, and redemption privileges and for the price that the regents determine with the approval of the department of administration.

(2) If applicable, the regents shall specify whether the bonds issued under this section are tax credit bonds as provided in [section 43]."

Renumber: subsequent sections

11. Page 30, line 19.

Strike: "specifically authorized"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Insert: "funded"

12. Page 30, line 21.

Strike: "specifically authorized"

Insert: "funded"

13. Page 31, line 2.

Strike: "specifically authorized"

Insert: "funded"

14. Page 31, line 4.

Strike: "specifically authorized"

Insert: "funded"

15. Page 31, line 6.

Strike: "specifically authorized"

Insert: "funded"

16. Page 31, line 8.

Strike: "specifically authorized"

Insert: "funded"

17. Page 31.

Following: line 9

Insert: "NEW SECTION. Section 42. Allocation of bonding limits -- American Recovery and Reinvestment Act of 2009. Unless the regulations adopted by the United States secretary of the treasury specify otherwise:

(1) the office of public instruction is responsible for allocating the state's share of qualified school construction bonds as authorized in section 1521 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the state's allocated share of qualified zone academy bonds as authorized in section 54E of the Internal Revenue Code, 26 U.S.C. 54E;

(2) the department of administration is responsible for allocating the state's share of qualified energy conservation bonds as authorized in section 54D of the Internal Revenue Code 26 U.S.C. 54D, as amended by section 1112 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5; and

(3) the department of administration, in consultation with the department of commerce, is responsible for allocating the state's share of recovery zone economic development bonds and recovery zone facility bonds, as authorized in section

1401 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5."

Insert: "NEW SECTION. Section 43. Tax credit bonds. (1) As used in this section, "tax credit bond" means any general obligation bond, impact aid revenue bond, special improvement district bond, revenue bond, industrial development bond, tax

increment bond, or any other bond of the state or a political subdivision that has been duly authorized and is eligible for designation as and has been designated as a qualified tax

credit bond under section 54A, section 54D, section 54E, section 54F, or section 54AA of the Internal Revenue Code, 26 U.S.C. 54A, 54D, 54E, 54F, or 54AA.

(2) Any bond issued as a tax credit bond may be issued and sold at public or private sale, may be payable and mature as to principal and interest, if any, on any date or dates, may be subject to redemption in whole or in part as determined by the governing body of the issuer, and may have other terms and conditions that the issuer considers to be necessary and appropriate.

(3) The governing body of the issuer of any tax credit bond is authorized to enter into agreements and make

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

covenants that may be necessary to provide for the sale and security of the bond, including investment of funds and accounts to repay the bond."

Insert: "NEW SECTION. Section 44. Recovery zone economic development bonds and recovery zone facility bonds. (1) Subject to the conditions and provisions contained in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the availability of allocation as determined in [section 42], cities and counties are authorized to designate economic recovery zones and issue recovery zone economic development bonds and recovery zone facility bonds to finance the costs of recovery zone projects and facilities eligible under the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

(2) The bonds must be authorized by the governing body of the city or county in accordance with the applicable provisions of Montana law, unless otherwise provided in [section 43]. The governing body is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bonds, subject to the following limitations:

(a) if the bonds that are issued under this section pledge the city's or county's credit or taxing power, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 22 or 42, as appropriate;

(b) if the bonds are payable from and secured solely by the revenue from a governmentally owned and operated facility or undertaking, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 44;

(c) if the bonds are payable from special assessments levied against benefitted property, the project must be eligible for special assessment financing and must be authorized in accordance with the provisions of Title 7, chapter 12, part 21 or parts 41 and 42, as appropriate;

(d) if the bonds are payable from tax increment revenue, the project to be financed must be eligible for tax increment financing and the project must be approved and the bonds must be authorized in accordance with the provisions of Title 7, chapter 15, parts 42 and 43;

(e) if the bonds are industrial development revenue bonds of the issuer, the bonds must be authorized in accordance with the provisions of Title 90, chapter 5, part 1."

"NEW SECTION. Section 45. Qualified energy conservation bonds. (1) Subject to the conditions and provisions contained in section 54D of the Internal Revenue Code, 26 U.S.C. 54D, as amended by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the availability of an allocation, cities and counties are authorized to issue qualified energy conservation bonds to finance projects for qualified energy conservation purposes and are authorized to undertake the qualified energy conservation purposes and programs within the meaning of the section 54D of the Internal Revenue Code, 26 U.S.C. 54D, as amended by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

(2) The bonds must be authorized by the governing body of the city or county in accordance with the provisions of applicable Montana law, except as otherwise provided in [section 43]. The governing body is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bonds, subject to the following limitations:

(a) if the bonds that are to be issued under this section pledge the city's or county's credit or taxing power, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 22 or 42, as appropriate;

(b) if the bonds to be issued under this section are payable from and secured solely by the revenue derived or generated from a qualified energy conservation program or project, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 44;

(c) if the bonds are payable from special assessments levied against benefitted property, the project must be eligible for special assessment financing and must be authorized in accordance with the provisions of Title 7, chapter 12, part 21 or parts 41 and 42, as appropriate;

(d) if the bonds are payable from tax increment revenue, the project to be financed must be eligible for tax increment financing and the project must be approved and the bonds must be authorized in accordance with the provisions of Title 7, chapter 15, parts 42 and 43;

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

(e) if the bonds are industrial development revenue bonds of the issuer, the bonds must be authorized in accordance with the provisions of Title 90, chapter 5, part 1.

Insert: "Section 46. Section 90-5-101, MCA, is amended to read:

"90-5-101. Definitions. As used in this part, unless the context otherwise requires, the following definitions apply:

(1) "Agricultural enterprises" includes but is not limited to producing, warehousing, storing, fattening, treating, handling, distributing, or selling farm products or livestock.

(2) "Bonds" means bonds, refunding bonds, notes, or other obligations issued by a municipality or county under the authority of this part, including without limitation short-term bonds or notes issued in anticipation of the issuance of long-term bonds or notes.

(3) "Electric energy generation facility" means any combination of a physically connected generator or generators, associated prime movers, and other associated property and transmission facilities and upgrades and improvements of transmission facilities, including appurtenant land and improvements and personal property, that are normally operated together to produce and transfer electric power. The term includes but is not limited to generating facilities that produce and transfer electricity from coal-fired steam turbines, oil or gas turbines, wind turbines, solar power sources, fuel cells, or turbine generators that are driven by falling water.

(4) "Family services provider" means organizations, including nonprofit corporations, that provide human services for children and adults, including but not limited to early care services for children, youth services, health services, social services, habilitative services, rehabilitative services, preventive care, and supportive services, and training, educational, and referral activities in support of human services.

(5) "Governing body" means the board or body in which the general legislative powers of the municipality or county are vested.

(6) "Higher education facilities" means any real or personal properties required or useful for the operation of an institution of higher education.

(7) "Institution of higher education" means any private, nonprofit corporation or institution within the state of Montana:

(a) authorized to provide or operate educational facilities; and

(b) providing a program of education beyond the high school level.

(8) "Mortgage" means a mortgage or deed of trust or other security device.

(9) "Municipality" means any incorporated city or town in the state.

(10) "Project" means:

(a) any land; any building or other improvement; and any other real or personal ~~properties~~ property considered necessary in connection with the improvement, whether or not now in existence, that must be suitable for use for commercial, manufacturing, agricultural, or industrial enterprises;

(b) recreation or tourist facilities;

(c) local, state, and federal governmental facilities; (d) multifamily housing, hospitals, long-term care facilities, community-based facilities for individuals who are persons with developmental disabilities as defined in 53-20-102, or medical facilities;

(e) higher education facilities;

(f) electric energy generation facilities;

(g) family services provider facilities;

(h) any facilities that are used or considered necessary to create or produce any intangible item, as defined in section 197(d)(1)(C)(iii) of the Internal Revenue Code, 26 U.S.C. 197(d)(1)(C)(iii), including any patent, copyright, formula, process, design, pattern, knowledge, format, or other similar intangible item;

(i) the production of energy using an alternative renewable energy source as defined in 15-6-225; and

(j) any combination of these projects in subsections (10)(a) through (10)(i)."

Insert: "Section 47. Section 90-5-103, MCA, is amended to read:

"90-5-103. Limited obligation bonds -- form and contents -- sale -- negotiability -- filing. (1) All bonds issued by a municipality or county under the authority of this part must be limited obligations of the municipality or county. Bonds and interest coupons issued under the authority of this part may not constitute or give rise to a pecuniary liability of the municipality or county or a charge against its general credit or taxing powers. This

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

limitation must be plainly stated upon the face of each of the bonds.

(2) The bonds referred to in subsection (1) may be executed and delivered at any time and from time to time, be in form and denominations, be of tenor, be in registered or bearer form either as to principal or interest, or both, be payable in installments and at a time or times not exceeding 40 years from the bonds date, be payable at a place or places, bear interest at a rate or rates, be evidenced in a manner, be redeemable prior to maturity, with or without premium, and contain provisions not inconsistent with this part as considered in the best interest of the municipality or county and provided for in the proceedings of the governing body under whose authority the bonds must be authorized to be issued.

(3) Any bonds issued under the authority of this part may be sold at public or private sale in a manner, at a time or times, and at a price above or below par as may be agreed upon by the lessee of the project or the borrower of the funds. The municipality or county may pay all expenses, premiums, and commissions that the governing body may consider necessary or advantageous in connection with the authorization, sale, and issuance of the bonds from the proceeds of the sale of the bonds or from the revenue of the projects.

(4) All bonds issued under the authority of this part and all interest coupons applicable to the bonds must be construed to be negotiable instruments despite the fact that they are payable solely from a specified source.

(5) All bonds issued under the authority of this part must be filed with the securities commissioner within 10 days of the date of their issue. The filing must include the name of the issuing authority, the name and address of the person or entity on whose behalf the bonds are issued, the amount of the bond issue, the date of the bond issue, and any other information that the securities commissioner may request. Failure to comply with this section does not affect the validity of the bond issue.

(6) If applicable, the governing body of the municipality or county shall specify whether the bonds are tax credit bonds as provided in [section 43], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 44], or qualified energy conservation bonds as provided in [section 45]."

Insert: "Section 48. Section 90-7-102, MCA, is amended to read:

"90-7-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Authority" means the Montana facility finance authority created in 2-15-1815.

(2) "Capital reserve account" means the account established in 90-7-317.

(3) "Costs" means costs allowed under 90-7-103.

(4) "Eligible facility" means any eligible facility as defined in 90-7-104.

(5) (a) "Institution" means any public or private:

(i) nonprofit hospital, corporation, or other organization authorized to provide or operate an eligible facility in this state; ~~or~~

(ii) nonprofit prerelease center, corporation, or other organization authorized to operate a prerelease center in this state; ~~or~~

(iii) for-profit or nonprofit corporation or other organization authorized to provide for or to operate a project or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code, 26 U.S.C. 144(a).

(b) The term also includes the following, provided that the entity is a nonprofit entity or is controlled by one or more nonprofit entities:

(i) a network of health care providers, regardless of how it is organized;

(ii) an integrated health care delivery system;

(iii) a joint venture or partnership between or among health care providers;

(iv) a purchasing alliance composed of health care providers;

(v) any health insurers and third-party administrators that are participants in a system, network, joint venture, or partnership that provides health services through one or more health facilities.

(6) "Participating institution" means an institution that undertakes the financing, refunding, or refinancing of obligations on the construction or acquisition of an eligible facility pursuant to the provisions of this chapter.

(7) "Revenue" means, with respect to eligible facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of the eligible facilities.""

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Insert: "Section 49. Section 90-7-104, MCA, is amended to read:

"90-7-104. Eligible facility. (1) The term "eligible facility" means any structure or building suitable for use as:

- (a) a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101;
- (b) a public health center, as defined in 7-34-2102;
- (c) a facility for persons with disabilities;
- (d) a chemical dependency treatment facility;
- (e) a nursing school;
- (f) a medical teaching facility;
- (g) a laboratory;
- (h) a dental care facility;
- (i) a prerelease center;
- (j) a diagnostic, treatment, or surgical center;
- (k) a facility providing services for the elderly; ~~or~~

(l) applicable to a project or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code, 26 U.S.C. 144(a); or

~~(m)~~ a structure or facility related to any of the uses enumerated in subsections (1)(a) through ~~(1)(k)~~ (1)(l) or required or useful for the operation of an eligible facility. These related facilities include supporting service structures and all necessary, useful, and related equipment, furnishings, and appurtenances and include without limitation the acquisition, preparation, and development of all lands and real and personal property necessary or convenient as a site for any of the uses enumerated in subsections (1)(a) through ~~(1)(k)~~ (1)(l).

(2) An eligible facility does not include:

- (a) items such as food, fuel, supplies, or other items that are customarily considered as current operating expenses; and
- (b) a structure used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship."

Insert: "NEW SECTION. Section 50. Taxation of projects. (1) Regardless of whether the title to a project is held by the authority or a trustee acting for the authority, if the project is being financed by the authority on behalf of a for-profit corporation or other organization, the project is subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances if the project is leased to or held by private interests on both the assessment date and the date the county commissioners set the mill levies in any year. The project is not subject to taxation in any year during which it is not leased to or held by private interests on both the assessment date and the date the county commissioners set the mill levy.

(2) When personal property owned by the authority or a trustee acting for the authority is taxed under this section and the personal property taxes on the personal property are delinquent, levy by warrant for distraint for collection of the delinquent taxes may be made only on the personal property against which the taxes were levied."

"NEW SECTION. Section 51. Procedure prior to financing certain projects. (1) In addition to meeting the other requirements contained in this chapter or in state or federal law, the requirements of subsections (2) through (4) must be met before financing is provided for a project described in 90-7-104(1)(l).

(2) The authority shall find that the financing is in the public interest. In order to determine whether or not the financing is in the public interest, a public hearing must be conducted in the following manner:

(a) the city or county in which the project will be located must be notified, and the city and county shall, within 14 days after receipt of the notice, notify the board if it elects to conduct the hearing; or

(b) if a request for a local hearing is not received by the authority within 14 days after the notification in subsection (2)(a), the authority may hold the hearing at a time and place it determines.

(3) Notice of the hearing must be published at least once a week for 2 weeks prior to the date set for the hearing by publication in a newspaper of general circulation in the city or county where the hearing will be held and the project will be located. The notice must include the time and place of the hearing, a general description of the nature and location of the project, the name of the lessee, borrower, or user of the project and the maximum principal amount of the financing to be provided by the authority.

(4) If the hearing required by subsection (2) is conducted by a local government, the governing body of

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

the local government shall notify the authority of its determination of whether the financing is in the public interest within 14 days after the completion of the public hearing.

Renumber: subsequent sections

18. Page 33, line 5 through page 43, line 1.

Strike: sections 27 and 28 in their entirety

Insert: "NEW SECTION. Section 56. Distribution of local government, tribal government, and school funds.

(1) Of the \$45 million appropriated to the department of commerce for distribution to local governments, tribal governments, and school districts in [section 81], \$10 million must be allocated to Montana counties, \$10 million must be allocated to Montana cities and towns, and \$5 million must be allocated to tribal governments. The department may retain 1.25% of the amount of the grants to counties, cities, towns, tribal governments, and school districts for administrative purposes. The distributions to tribal governments must be made available through the state-tribal economic development commission as provided in 90-1-130 through 90-1-135. The commission shall provide funding for projects that are available for immediate commencement to improve infrastructure or improve energy efficiency. The funds are intended to be allocated to complete priority projects as determined by the appropriate tribal government, but each tribe must be allocated at least \$200,000. The funds appropriated to the department of commerce for local governments must be distributed pursuant to Title 90, chapter 1, part 2. The funds allocated to local governments must be distributed as follows:

(a) each county must receive \$100,000 plus the proportional share of the funds remaining from the \$10 million based upon a blending of the distribution formulas contained in 15-70-101(2)(b) and (3); and

(b) each city and town must receive \$5,000 plus the proportional share of the funds remaining from the \$10 million based upon the distribution formula in 15-70-101(2)(c).

(2) Funds received by a county, city, or town pursuant to subsection (1) may be used for projects approved by the department of commerce for the following purposes:

(a) designing, erecting, repairing, and remodeling public buildings or making energy efficiency improvements to public buildings;

(b) designing, constructing, and repairing sewers, storm sewers, sewage treatment and disposal plants, waterworks, and reservoirs;

(c) designing, constructing, and repairing bridges, docks, wharves, breakwaters, and piers;

(d) designing, constructing, reconstructing, improving, maintaining, and repairing roads;

(e) acquiring, opening, or widening any street and improving the street by designing, constructing, reconstructing, and repairing pavement, gutters, sidewalks, curbs, and vehicle parking strips;

(f) designing, building, renovating, and equipping parks and other recreation facilities; and

(g) installing street lighting.

(3) The department of commerce shall distribute \$20 million of the appropriation for Distribution to School Districts and Local and Tribal Governments contained in [section 81] to school districts based upon the formula for distributing the quality educator payment provided for in 20-9-327. A school district shall use the funds received pursuant to this section for deferred maintenance and for making energy efficiency improvements."

Renumber: subsequent sections

19. Page 43, line 12.

Following: "BUILDING."

Insert: "The department shall give priority to schools operating out of temporary facilities because of a calamitous event."

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

20. Page 43, line 15.

Strike: "51"

Insert: "81"

Strike: "\$35"

Insert: "\$15"

21. Page 43, line 18.

Strike: "51"

Insert: "81"

22. Page 44.

Following: line 3

Insert: "NEW SECTION. Section 58. Energy development and demonstration grant program. (1) There is an energy development and demonstration grant program within the department of environmental quality to fund technology development and demonstration:

(a) advancing the development and utilization of energy storage systems, including but not limited to mediums, such as accumulators, fuel cells, and batteries, that store energy that may be drawn upon at a later date for use;

(b) developing storage systems specifically designed to store energy generated from eligible renewable resources as defined in 69-3-2003, including but not limited to compressed air energy storage systems;

(c) promoting the efficiency, environmental performance, and cost-competitiveness of energy storage systems beyond the current level of technology; and

(d) advancing the development of alternative energy systems as defined in 15-32-102.

(2) Entities that may be eligible for grants include but are not limited to units of the Montana university system, agricultural research centers, or private entities or research centers.

(3) Money appropriated to the department of environmental quality for the purpose of the energy development and demonstration grant program may be used by the department for providing individual grants in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

(4) The grant application may include:

(a) a project plan sufficient to allow a reasonable determination regarding the potential feasibility of advancing energy storage or alternative energy systems;

(b) a business plan to allow a reasonable determination regarding the financial feasibility of the project; and

(c) a reporting process to ensure progress toward project goals."

Insert: "NEW SECTION. Section 59. Mortgage loan assistance program. The department of commerce shall develop a mortgage loan program to assist first-time home buyers with down payment and closing costs. The program must provide for lending institutions to make short-term loans of \$5,000 to qualified first-time home buyers. The loans must be paid by June 30, 2010. The department may require the home buyer to pledge federal tax credits to the loan repayment."

Insert: "NEW SECTION. Section 60. Contingent loan acquisition account -- fund transfer. (1) There is a contingent loan acquisition account in the state special revenue fund. The amount of \$2 million is transferred from the state general fund to the account.

(2) The board of housing may use money in the account to purchase loans made under [section 59] that are not paid by June 30, 2010. Money remaining in the account on August 1, 2010, must revert to the general fund."

Renumber: subsequent sections

23. Page 45, lines 10 through 14.

Strike: section 37 in its entirety

Renumber: subsequent sections

24. Page 48, lines 2 and 3.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Strike: subsection (c) in its entirety

25. Page 48, lines 6 through 8.

Strike: subsection (d) in its entirety

Insert: "(c) to the office of public instruction for BASE aid, then the general fund appropriation for that purpose in House Bill No. 2 is reduced by \$12,763,569 in FY 2010 and \$13,216,482 in FY 2011; and

(d) to the office of the commissioner of higher education for appropriation distribution transfers, then the general fund appropriation for that purpose in House Bill No. 2 is reduced by \$31,605,482 in FY 2010 and \$31,605,482 in FY 2011."

26. Page 48, line 11.

Strike: "51"

Insert: "81"

27. Page 48, line 13.

Strike: "(3)"

Insert: "(4)"

28. Page 48, line 21 through page 49, line 2.

Following: "void" on line 21

Strike: remainder of line 21 through "void" on page 49, line 2

29. Page 49, lines 7 and 8.

Following: "item" on line 7

Strike: remainder of line 7 through "funds" on line 8

Insert: "general fund transfers"

Following: "No."

Strike: "5"

Insert: "645"

Following: the first "million"

Insert: "or more"

30. Page 49, line 13.

Strike: "51"

Insert: "81"

31. Page 49.

Following: line 13

Insert: "(4) If House Bill No. 5 is passed and approved and if [this act] does not contain an appropriation for Access Montana in the department of fish, wildlife, and parks, then the appropriation for that purpose in House Bill No. 5 is void."

32. Page 50, line 9.

Strike: "51"

Insert: "81"

33. Page 50, line 20.

Strike: "51"

Insert: "81"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

34. Page 51, line 6.

Strike: "51"

Insert: "81"

35. Page 51, line 13.

Strike: "51"

Insert: "81"

36. Page 51, line 15.

Strike: "10"

Insert: "29"

Strike: "11"

Insert: "30"

37. Page 51, line 16.

Strike: "10"

Insert: "29"

Strike: "11"

Insert: "30"

38. Page 51, line 17.

Strike: "14"

Insert: "33"

39. Page 51, line 18.

Strike: "14"

Insert: "33"

40. Page 51, line 19.

Strike: "23"

Insert: "52"

41. Page 51, line 20.

Strike: "23"

Insert: "52"

42. Page 51, line 21.

Strike: "25 AND 26"

Insert: "54 and 55"

43. Page 52, line 1.

Strike: "25 AND 26"

Insert: "54 and 55"

44. Page 52.

Following: line 1

Insert: "(5) [Sections 42 and 43] are intended to be codified as an integral part of Title 17, chapter 5, part 1, and the provisions of Title 17, chapter 5, part 1, apply to [section 42 and 43].

(6) [Sections 44 and 45] are intended to be codified as an integral part of Title 7, chapter 7, part 1, and the provisions of Title 7, chapter 7, part 1, apply to [sections 44 and 45].

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

(7) [Sections 50 and 51] are intended to be codified as an integral part of Title 90, chapter 7, and the provisions of Title 90, chapter 7, apply to [sections 50 and 51]."

45. Page 52, line 4.

Strike: "2" in both places

Insert: "11" in both places

46. Page 52, line 10.

Strike: "16 AND 18"

Insert: "35 and 37"

47. Page 52, line 13.

Following: "1"

Insert: ", 11"

Following: "through"

Insert: "13,"

Strike: "6" through "29"

Insert: "18, 19, 27, 28, 31, 32, 34 through 41, and 56, 57, 59, and 60"

48. Page 52, line 16.

Strike: "51"

Insert: "81"

49. Page A-2, line 13 through line 14.

Strike: line 13 through line 14 in their entirety

Renumber: subsequent subsections

50. Page A-2, line 16.

Strike: "798,496 798,496" [federal special fund FY10 and FY11]

Insert: "798,496 798,496" [general fund FY10 and FY11]

51. Page A-3, line 5 through line 6.

Strike: line 5 through line 6 in their entirety

Insert: "e. Community Service Planning Grant 25,000 " [general fund FY10]

f. Biomass Energy Study 475,000" [general fund FY 10]

g. Montana Agro-Energy Industrial Park (Restricted) 150,000 150,000" [general fund FY 10 and FY 11]

52. Page A-3, line 9.

Strike: "455,000 455,000" [General fund FY 10 and FY 11]

Insert: "255,000 255,000" [General fund FY 10 and FY 11]

53. Page A-3, line 10 through line 11.

Strike: line 10 through line 11 in their entirety

54. Page A-3, line 15 through page A-4, line 4.

Strike: line 15 through line 4 in their entirety

Insert: "b. Distribution to School Districts and Local and Tribal Governments 23,000,000 22,000,000"
[General fund and State special Revenue FY 10]

Insert: "c. Community and Coal Board Grants 6,500,000" [General fund FY 10]

Insert: "d. Other Grants 1,285,000 3,966,000" [General fund and State Special Revenue FY 10]

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Insert: "e. Historic Preservation Competitive Grants 1,500,000 1,500,000 [general fund FY10 and FY11]"

55. Page A-4.

Following: line 9

Insert: "c. Welcome Home Loan Program 2,000,000" [state special fund FY 10]

56. Page A-4, line 11.

Strike: "Matching Grants"

Insert: "Mapping"

57. Page A-4, line 12.

Strike: "2,500,871 2,499,129" [General fund FY 10 and FY 11]

Insert: "300,000" [General fund FY 10]

58. Page A-4, line 14.

Strike: "21,497,200" [State special FY 11]

Insert: "11,497,200" [State special FY 11]

59. Page A-4, line 15.

Strike: "13,536,800"

Insert: "3,536,800"

60. Page A-4, line 16 through page A-5, line 15.

Strike: page A-4, line 16 through page A-5, line 15 in their entirety

61. Page A-6, line 4 through line 8.

Strike: line 4 through line 8 in their entirety

Insert: "The line item for Biomass Energy Study may be used to fund biomass project feasibility studies, installation of biomass energy boilers, or biomass program staff within the department of natural resources and conservation in order to increase biomass utilization accomplishments.

Community and Coal Board Grants includes \$2,000,000 restricted to the provision of additional community development block grants to be allocated under the existing allocation formula and \$4,500,000 restricted to the provision of grants by the coal board established in 2-15-1821."

62. Page A-6, line 9.

Following: "Broadband"

Strike: "Matching Grants"

Insert: "Mapping"

63. Page A-6, line 9 through line 14.

Following: "statewide" on line 9

Strike: remainder of line 9 through line 14

Insert: "broadband inventory map pursuant to the provisions of Title VI of the American Recovery and Reinvestment Act of 2009, Public Law 111-5."

64. Page A-6, line 15.

Strike: "The"

Insert: "Except as provided in [sections 56 and 57], the"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

65. Page A-7.

Following: line 11

Insert: "The amount of 2.71% of the appropriation for the line item for Historic Preservation Competitive Grants may be used for administrative expenses to implement the program."

66. Page A-7, line 12 through page A-8, line 1.

Strike: line 12 through line 1 in their entirety

67. Page A-10.

Following: line 16

Insert: "g. Military Museum and IED -- Fort Harrison 1,000,000" [general fund FY 10]

68. Page A-11.

Following: line 11

Insert: "Military Museum and IED -- Fort Harrison consists of \$250,000 for a military museum and \$750,000 for IED training."

69. Page B-3, line 12.

Strike: "2,000,000 2,000,000" [general fund FY10 and FY11]

Insert: "4,650,830 10,333,165" [general fund FY10 and FY11]

Strike: "8,527 7,980" [state special fund FY10 and FY11]

Insert: "19,829 41,231" state special fund FY10 and FY11].

Strike: "3,588,062 3,118,487" [federal special fund FY10 and FY11]

Insert: "8,343,733 16,111,921" [federal special fund FY10 and FY11]

70. Page B-4, line 6.

Strike: "1,000,000 1,000,000" [federal special fund FY10 and FY11]

Insert: "1,000,000 1,000,000" [general fund FY10 and FY11]

71. Page B-5, line 1.

Strike: "1,265,733 949,981" [federal special funds FY 10 and FY 11]

Insert: "1,315,737 1,000,000"[federal special funds FY 10 and FY 11]

72. Page B-5, lines 2 & 3.

Strike: line 2 through line 3 in their entirety

73. Page B-5, line 12.

Strike: "25,000,000 35,000,000" [general fund FY10 and FY11]

Insert: "18,433,433 22,219,989" [general fund FY10 and FY11]

Strike: "84,361,329 118,105,861" [federal special fund FY10 and FY11]

Insert: "62,456,789 96,218,637" [federal special fund FY10 and FY11]

74. Page B-6, following line 7.

Following: "c. Direct Care Worker Wage Increase -- SLTC Services (Restricted)

1,915,738 2,446,846" [general fund FY10 and FY11]

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

" 6,210,553 5,775,301" [federal special fund FY10 and FY11]

75. Page B-6, line 10.

Strike: "2,000,000 2,000,000" [General fund FY 10 and FY 11]

Insert: "250,000 250,000" [General fund FY 10 and FY 11]

76. Page B-7, line 3.

Following: "SECTION"

Strike: "5"

Insert: "18"

77. Page B-7, line 4.

Following: "SECTION"

Strike: "5"

Insert: "18"

78. Page B-7, line 11.

Following: "INCREASE."

Insert: "Provider Rate Increase may not be used to raise rates paid to providers pursuant to 53-6-125."

79. Page B-7, line 14.

Following: "SECTION"

Strike: "5"

Insert: "18"

80. Page B-7, line 15.

Following: "SECTION"

Strike: "5"

Insert: "18"

81. Page B-7, line 16.

Strike: line 16 in its entirety

82. Page B-8, line 4.

Following: "SECTION" in 2 places

Strike: "5" in both places

Insert: "18" in both places

83. Page B-8.

Strike: lines 7 through 8 in their entirety

84. Page B-8, line 9.

Following: "FY2010-11"

Insert: ": (1) may be used only to transfer funds eligible for reserve under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Title V, section 5001, to a state special revenue account; (2)"

Following: "PROGRAM"

Strike: "."

Insert: "; and"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

85. Page B-8, line 10.

Strike: "UP"

Insert: "(3) includes an appropriation of up"

Following: "FUNDS"

Strike: "MAY BE USED"

86. Page B-8, following line 11.

Insert: "Direct Care Worker Wage Increase -- SLTC Services must be used to raise provider rates for medicaid services to allow for wage increases or lump-sum payments to workers who provide direct care and ancillary services."

87. Page C-1.

Following: line 15

Insert: "g. Energy Storage Grant Program 1,000,000 [federal special revenue FY10]

h. Energy Storage Grant Program Additional Funding (Restricted) 1,000,000 [federal special revenue FY11]"

88. Page C-2.

Following: line 15

Insert: "Energy Storage Grant Program Additional Funding is appropriated only if the federal allocation for the state energy program exceeds \$25.8 million and the excess funding is not restricted to another purpose."

89. Page C-4, line 5 through line 6.

Strike: line 5 through line 6 in their entirety

90. Page D-1, line 5.

Strike: "247,500 247,500" [General fund FY 10 and FY 11]

Insert: "125,000 125,000" [General fund FY 10 and FY 11]

91. Page D-2.

Following: line 15

Insert: "a. Meth Watch
500,000" [General fund FY 10]

Renumber: subsequent subsection

92. Page E-1.

Strike: line 4 through line 5 in their entirety

Renumber: subsequent subsections

93. Page E-1.

Following: line 9

Insert: "c. Title I-A -- FY 2009

415,800 [federal special revenue FY10]

d. McKinney-Vento (Homeless Assistance) -- FY 2010-11

22,400 [federal special revenue FY10]"

94. Page E-1, line 14.

Strike: "34,650,000 [federal special revenue FY10]"

Insert: "34,234,200 [federal special revenue FY10]"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

95. Page E-1, line 16.

Strike: "35,472,241 [federal special revenue FY10]"

Insert: "36,708,056 [federal special revenue FY10]"

96. Page E-2, line 8.

Strike: "224,000 [federal special revenue FY10]"

Insert: "201,600 [federal special revenue FY10]"

97. Page E-2, line 11 through line 12.

Strike: line 11 through line 12 in their entirety

98. Page E-2.

Following: line 12

Insert: "i. Stabilization Funding for K-12 Education 12,763,509 13,216,482" [federal special fund FY10 and FY11]

"j. Increase State Support for Schools With Education Stabilization Funds
10,724,262 21,713,034" [federal special fund FY10 and FY11]

99. Page E-3, line 1 through line 3.

Strike: line 1 through line 3 in their entirety

Insert: "For the 2011 biennium, the first source of funding of the school district guaranteed tax base aid and direct state aid is the federal appropriation for Stabilization Funding for K-12 Education."

100. Page E-4, line 4.

Strike: "1,000,000 1,000,000" [federal special fund FY10 and FY11]

Insert: "1,000,000 1,000,000" [general fund FY10 and FY11]

101. Page E-4.

Following: line 4

Insert: "b. Virtual Academy
1,000,000 1,000,000" [general fund FY10 FY11]

102. Page E-4, line 6.

Following: "Assistance"

Insert: " -- Restore to Governor's December 15 Budget"

103. Page E-4, line 7.

Strike: "606,189 671,586" [federal special fund FY10 and FY11]

104. Page E-4, line 8.

Strike: "700,000 700,000" [general fund FY10 and FY11]

Insert: "606,189 671,586" [general fund FY10 and FY11]

105. Page E-4.

Following: line 8

Insert: "b. Community College Assistance
137,944 113,299" [general fund FY10 and FY11]

"762,056 786,701" [federal special fund FY10 and FY11]

Renumber: subsequent subsections

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

106. Page E-4, line 10.

Strike: "776,851 824,024" [general fund FY10 and FY11]

Insert: "776,851 824,024" [federal special fund FY10 and FY11]

107. Page E-4, line 12.

Following: "Resident Students"

Insert: "Funded With Education General Funds"

108. Page E-4, line 13.

Strike: "5,000,000 5,000,000" [federal special fund FY10 and FY11]

Insert: "3,154,033 2,506,230" [general fund FY10 and FY11]

109. Page E-4, line 15.

Strike: "44,076,457 45,074,019" [federal special fund FY10 and FY11]

Insert: "31,605,482 31,605,482" [federal special fund FY10 and FY11]

110. Page E-4, line 16.

Following: "RESIDENT STUDENTS"

Insert: "Funded With General Government State Fiscal Stabilization Funds"

111. Page E-5, line 1.

Strike: "4,103,549 4,103,549" [general fund FY10 and FY11]

Insert: "5,966,490 6,580,345" [federal special fund FY10 and FY11]

112. Page E-5, line 4.

Following: "STATION"

Strike: remainder of line 4

Insert: "-- Sawfly Research (Restricted)"

113. Page E-5, line 5.

Strike: "300,000 300,000" [general fund FY10 and FY11]

Insert: "250,000 250,000" [general fund FY10 and FY11]

114. Page E-5.

Strike: line 6 through line 7 in their entirety

Insert: "f. Agricultural Experiment Station -- Equipment and Infrastructure
1,000,000 1,000,000" [general fund FY10 & FY11]

g. Montana Extension Service -- Local Government Centers (Restricted) 150,000 150,000" [general fund FY10 and FY11]

h. Replace 6-Mill Levy Revenue Shortfall With Federal General Stabilization Funds
1,447,296 1,046,625" [federal special fund FY10 and FY11]

115. Page E-5, line 10.

Strike: "450,000 450,000" [federal special fund FY10 and FY11]

Insert: "450,000 450,000" [general fund FY10 and FY11]

116. Page E-6, line 9 through line 10.

Following: "AMOUNT OF" on line 9

Strike: remainder of line 9 through line 10

Insert: "\$1,800,000 total funds over the biennium for Community College Assistance will be allocated as follows:

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

\$900,000 to Flathead Valley community college, \$450,000 to Miles community college, and \$450,000 to Dawson community college."

117. Page E-6.

Strike: line 11 through line 12 in their entirety

118. Page E-6.

Following: line 12

Insert: "For OCHE--Appropriation Distribution Transfers, the House Bill No. 2 base state special revenue fund appropriations for transfers are reduced by \$1,447,296 in FY 2010 and \$1,046,625 in FY 2011."

119. Page E-6, line 14.

Following: "SECTION"

Strike: "5"

Insert: "18"

120. Page E-6, line 15.

Following: "SECTION"

Strike: "5"

Insert: "18"

121. Page E-6.

Following: line 15

Insert: "The line item appropriation for Agricultural Experiment Station -- Sawfly Research is restricted to sawfly research.

The line item appropriation for Agricultural Experiment Station -- Equipment and Infrastructure is restricted to purchases for infrastructure and equipment for agricultural experiment stations.

The line item appropriation for Montana Extension Service -- Local Government Centers is restricted to expenditures for the local government center program in the Montana extension service.

Any local education agency or institution of higher education that receives funding under this program shall ensure that the agency or institution will meet the intentions and legal requirements of the American Recovery and Reinvestment Act of 2009, Public Law 111-5."

122. Page F-1, line 4.

Following: "Program"

Insert: "Transfer"

123. Page F-1, line 6.

Strike: "6,744,914 6,744,914 [federal funds FY10 and FY11]"

Insert: "7,248,486 6,544,914 [general fund FY10 and FY11]"

124. Page F-1, line 7.

Following: line 6

Insert: "b. Long-Range Building Program Allocation
638,216 638,216 [FY 2010 & FY 2011 Federal Fund]"

Renumber: subsequent subsections

125. Page F-1, line 10.

Strike: "Long-Range Building Program"

Insert: "State"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Following: "Conservation"
Strike: "Improvements"
Insert: "Repayment Account"

126. Page F-1, line 15.
Following: "Improvements"
Insert: "Transfer"

127. Page F-1, line 16.
Strike: "11,000,000 11,000,000" [federal special fund FY10 and FY11]
Insert: "6,150,000 6,150,000" [general fund FY10 and FY11]
Insert: "3,850,000 4,850,000" [federal special fund FY10 and FY11]

128. Page F-1.
Following: line 16
Insert: "g. MUS Energy Conservation Additional Funds (Restricted) 1,000,000 " [federal special revenue FY11]

129. Page F-2, line 1.
Following: "Hall"
Insert: "Transfer"

130. Page F-2, line 2.
Strike: "3,000,000 3,000,000" [federal special fund FY10 and FY11]
Insert: "3,000,000 3,000,000" [general fund FY10 and FY11]

131. Page F-2, line 3 through line 5.
Strike: line 3 through line 5 in their entirety
Renumber: subsequent subsection

132. Page F-2, line 9.
Following: "h."
Insert: "State"
Following: "Energy"
Strike: "Project Administration"
Insert: "Conservation Capital Projects Account"

133. Page F-2, line 12.
Strike: "ESSC"
Insert: "Enterprise System Services Center"
Following: "Equipment"
Strike: "and Moving Expenses"
Insert: "(Department of Administration)"

134. Page F-2, line 13.
Strike: "1,750,000 1,750,000" [General fund FY 10 and FY 11]
Insert: "1,250,000 1,250,000" [General fund FY 10 and FY 11]

135. Page F-5, line 6.
Strike: line 6 in its entirety

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

136. Page F-5.

Following: line 7

Insert: MUS Energy Conservation Additional Funds is appropriated only if the federal allocation for the state energy program in the department of environmental quality exceeds \$25.8 million and the excess funding is not restricted to another purpose."

And, as amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman):

4/8/2009

SJR 38, do pass. Report adopted.

HB 662, be amended as follows:

1. Page 1, line 11.

Strike: "10"

Insert: "9"

2. Page 1, line 17.

Strike: "10"

Insert: "9"

3. Page 1, line 18.

Strike: "10"

Insert: "9"

4. Page 1, line 21.

Strike: "10"

Insert: "9"

5. Page 1, line 23.

Strike: "11"

Insert: "10"

6. Page 1, line 28.

Strike: "10"

Insert: "9"

7. Page 2, line 1.

Following: "stretching"

Insert: "or movement"

8. Page 2, line 2.

Following: "range of"

Strike: "movement"

Insert: "motion"

9. Page 2, line 11.

Following: "SCOPE OF"

Strike: "THE"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

10. Page 2, line 13.

Following: "tape"

Insert: "when applied to restrict joint movement"

11. Page 2, line 17.

Strike: "10"

Insert: "9"

12. Page 2, line 22 through line 23.

Strike: "Massage" on line 22 through "Montana." on line 23

13. Page 2, line 27.

Strike: "10"

Insert: "9"

14. Page 2, line 29.

Strike: "10"

Insert: "9"

15. Page 3, line 9.

Following: "integration"

Strike: "or"

Insert: ", "

Following: "Rolfing"

Insert: ", "

16. Page 3, line 20.

Strike: "10"

Insert: "9"

17. Page 3, line 21 through line 22.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

18. Page 3, line 25 through line 26.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

19. Page 3, line 30.

Following: "public"

Insert: "as provided for in Title 37, chapter 1"

20. Page 4, line 2 through line 20.

Strike: Section 6 in its entirety

Renumber: subsequent sections

21. Page 4, line 23.

Strike: "9"

Insert: "8"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

22. Page 4, line 25.

Strike: "8"

Insert: "7"

23. Page 4, line 26.

Strike: "9"

Insert: "8"

24. Page 5, line 1.

Strike: "10"

Insert: "9"

25. Page 5, line 4.

Strike: "7"

Insert: "6"

26. Page 5, following line 7.

Insert: "(c) must possess a high school diploma or its equivalent;"

Renumber: subsequent subsections

27. Page 5, line 10.

Following: "required to"

Insert: ": (a)"

28. Page 5, line 11.

Following: "meets"

Insert: "or exceeds"

29. Page 5, line 11 through line 13.

Strike: "criteria" on line 11 through "(a)" on line 13

Insert: "curriculum guidelines established by any program or organization accredited by the national commission for certifying agencies or its equivalent or successor and"

30. Page 5, line 18.

Strike: "may"

Insert: "shall"

31. Page 5, line 21.

Following: "SECTION"

Insert: "and that the applicant meets the requirements of [section 7(1)(a), (1)(b), (1)(d), and (1)(e)]"

32. Page 5, line 29.

Strike: "8"

Insert: "7"

33. Page 5, line 30.

Strike: "8"

Insert: "7"

34. Page 6, line 4.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Strike: "10"
Insert: "9"

35. Page 6, line 10.
Following: "practitioner"
Insert: "or an owner of a school that educates massage therapists"

36. Page 6, line 12 through line 13.
Strike: "Montana" on line 12 through "physician" on line 13
Insert: "licensed health care provider in good standing in Montana"

37. Page 6, line 16.
Following: "board."
Insert: "None of the three massage therapists may belong to the same national professional association."

38. Page 6, line 17.
Strike: "10"
Insert: "9"

39. Page 6, line 28.
Strike: "10"
Insert: "9"

40. Page 6, line 29.
Strike: "10"
Insert: "9"

41. Page 6, line 30.
Strike: "11"
Insert: "10"

42. Page 7, line 1.
Strike: "11"
Insert: "10"

And, as amended, be concurred in. Report adopted.

TAXATION (Essmann, Chairman):

4/9/2009

SJR 37, do pass. Report adopted.

HB 262, be concurred in. Report adopted.

HB 312, be concurred in. Report adopted.

HB 315, be amended as follows:

1. Title, line 5.

Strike: "; REDUCING" through "FORMULA"

Insert: "BY PROVIDING FOR INFLATION ADJUSTMENTS TO THE EXCLUSION AMOUNT AND THE INCOME CAP"

2. Page 2, line 12.

Strike: "\$4,000"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Insert: "\$3,600"

3. Page 2, line 16.

Strike: "\$1"

Insert: "\$2"

4. Page 2, line 20.

Strike: "\$1"

Insert: "\$2"

5. Page 6, line 7.

Following: "professional."

Insert: "(13) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c)."

6. Page 6, line 16.

Strike: "\$4,000 or adjusted by an"

Insert: "the"

7. Page 6, line 17.

Following: "15-30-111(2)(c)"

Strike: "(ii)"

8. Page 6, line 23.

Strike: "first" through "or the"

9. Page 6, line 24.

Following: "15-30-111(2)(c)"

Strike: "(ii)"

10. Page 7, line 6.

Strike: "first" through "or the"

Following: "15-30-111(2)(c)"

Strike: "(ii)"

11. Page 7, line 15.

Strike: "first" through "or the"

Following: "15-30-111(2)(c)"

Strike: "(ii)"

12. Page 7, line 24.

Strike: "\$4,000 or adjusted by an"

Insert: "the"

13. Page 7, line 25.

Following: "15-30-111(2)(c)"

Strike: "(ii)"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

14. Page 8, line 7.

Strike: "\$4,000 or adjusted by an"

Insert: "the"

15. Page 8, line 8.

Following: "15-30-111(2)(c)"

Strike: "(ii)"

And, as amended, be concurred in. Report adopted.

HB 636, be amended as follows:

1. Page 1, line 12.

Following: "The"

Insert: "following"

2. Page 1, line 15.

Following: "31"

Strike: ". "

Insert: ":

(a) 100% of the recognized gain for a mobile home park with 50 or fewer lots; or

(b) 50% of the recognized gain for a mobile home park with more than 50 lots.

(2)"

Renumber: subsequent subsections

3. Page 1.

Following: line 30

Insert: "(5) Qualifying for an income or corporate tax exclusion pursuant to this section does not exempt the mobile home park from property taxation."

And, as amended, be concurred in. Report adopted.

HB 657, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 305**
Report No. 1, April 8, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 305** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 305** (reference copy -- salmon) be amended as follows:

1. Page 3, line 6.

Strike: "120"

Insert: "80"

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

For the Senate:

Tutvedt, Chairman
Esp
Laslovich

For the House:

Reinhart, Vice Chair
Berry
Ebinger
Stahl

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 404**
Report No. 0, April 9, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 404** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 404** (reference copy -- salmon) be amended as follows:

1. Page 1, line 13.

Strike: "1,280"

Insert: "1,920"

2. Page 1, line 14.

Following: "acres"

Strike: " "

Strike: "MAY NOT"

Insert: "and must"

3. Page 1, line 15.

Strike: "WITHIN 2 MILES OF ANOTHER PRESERVE, AND MAY"

Insert: "in areas that will"

For the Senate:

Brueggeman, Chairman
Barkus
Jent

For the House:

Van Dyk, Vice Chair
Hendrick
Milburn

April 9, 2009

The Honorable Robert Story
President, Montana State Senate
Capitol Station
Helena, Montana 59620

Dear President Story:

Attached is an additional appointment requiring confirmation by the Montana State Senate. We have supplied the following information:

Reference to statute, and a brief description of the statute

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Name, address, and phone number for the appointee
Appointee qualifications and term of appointment
Brief biography

Additional information, including a complete list of gubernatorial appointees, is available online at: <http://boards.mt.gov/>. Meanwhile, please don't hesitate to contact our office if my staff or I can be of assistance to you.

Sincerely yours,

Board of Public Education -- 2-15-1508, Montana Code Annotated

John Edwards, P.O. Box 20039, Billings, MT 59104 (Member)

BRIAN SCHWEITZER
Governor

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 622 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Brenden, Esp, Gebhardt.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 634 concurred in as follows:

Yeas: Balyeat, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 41

Nays: Bales, Barkus, Brenden, R. Brown, Esp, Gebhardt, Ripley, Steinbeisser, Zinke.
Total 9

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-EIGHTH LEGISLATIVE DAY - APRIL 9, 2009

Total 0

Excused: None.

Total 0

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:30 a.m., Tuesday, April 14, 2009. Motion carried.

Senate adjourned at 4:26 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
SEVENTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 14, 2009

Senate Chambers
State Capitol

Senate convened at 8:30 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

4/14/2009

Correctly printed: **SJR 37, SJR 38, HB 262, HB 312, HB 657.**

Correctly engrossed: **HB 2, HB 5, HB 10, HB 11, HB 128, HB 152, HB 224, HB 258, HB 315, HB 459, HB 464, HB 636, HB 645, HB 662, HB 676.**

Correctly enrolled: **SB 79, SB 234, SB 350, SR 11, SR 12, SR 13, SR 21, SR 22, SR 23, SR 28.**

Correctly enrolled: **SB 65, SB 73, SB 108, SB 198, SB 231, SB 430.**

Examined by the sponsor and found to be correct: **SB 79, SB 234, SB 350, SR 11, SR 12, SR 13, SR 21, SR 22, SR 23, SR 28.**

Examined by the sponsor and found to be correct: **SB 65, SB 73, SB 108, SB 198, SB 231, SB 430.**

Signed by the Speaker at 2:00 p.m., April 14, 2009: **SB 8, SB 32, SB 86, SB 281, SB 286, SB 349, SB 442.**

Signed by the Secretary of the Senate at 12:25 p.m., April 9, 2009: **SB 8, SB 32, SB 86, SB 281, SB 286, SB 349, SB 442, SR 32.**

Signed by the President at 2:00 p.m., April 9, 2009: **SB 8, SB 32, SB 86, SB 281, SB 286, SB 349, SB 442, SR 32.**
Delivered to the Secretary of State at 3:24 p.m., April 14, 2009: **SR 11, SR 12, SR 13, SR 21, SR 22, SR 23, SR 28.**

Delivered to the Governor for approval at 3:45 p.m., April 14, 2009: **SB 8, SB 32, SB 86, SB 281, SB 286, SB 349, SB 442.**

Signed by the Speaker at 4:00 p.m., April 14, 2009: **SB 79, SB 350.**

Signed by the President at 12:45 p.m., April 14, 2009: **SB 79, SB 350.**

Signed by the Secretary of the Senate at 9:35 a.m., April 14, 2009: **SB 79, SB 350.**

Signed by the Secretary of the Senate at 10:25 a.m., April 14, 2009: **SB 234.**

Signed by the President at 12:30 p.m., April 14, 2009: **SB 234.**

Signed by the Speaker at 4:00 p.m., April 14, 2009: **SB 234.**

Signed by the President at 12:45 p.m., April 14, 2009: **SR 11, SR 12, SR 13, SR 21, SR 22, SR 23, SR 28.**

Signed by the Secretary of the Senate at 9:35 a.m., April 14, 2009: **SR 11, SR 12, SR 13, SR 21, SR 22, SR 23, SR 28.**

Signed by the Speaker at 4:30 p.m., April 14, 2009: **SB 65, SB 73, SB 108, SB 198, SB 231, SB 430.**

Signed by the President at 3:00 p.m., April 14, 2009: **SB 65, SB 73, SB 108, SB 198, SB 231, SB 430.**

Signed by the Secretary of the Senate at 2:50 p.m., April 14, 2009: **SB 65, SB 73, SB 108, SB 198, SB 231, SB 430.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

4/14/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 5:00 p.m., Thursday, April 9, 2009:

TITLE

NAME

Pages:

Hannah Goodman, Helena
Kiah Marie Abbey, Billings

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Robbyn L. Reukauf, Terry
Madison Wittich, Bozeman
Joe J. Newman, Butte
Brinna L. Boettger, Lewistown

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Tuesday, April 14, 2009:

<u>TITLE</u>	<u>NAME</u>
Pages:	Chelsea Smith-West, White Sulphur Springs
	Joel Colbert, Missoula
	Jordan Larsen, Geraldine
	Lane Nordlund, Lewistown
	Matt Wier, Great Falls
	Caitlin Haaland, Melstone

Report Adopted.

MESSAGES FROM THE GOVERNOR

April 9, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 98, "**AN ACT AUTHORIZING STATE AGENCIES TO ENTER INTO ENERGY PERFORMANCE CONTRACTS; AND AMENDING SECTIONS 18-2-101, 18-4-132, 90-4-1101, 90-4-1102, 90-4-1103, 90-4-1104, 90-4-1105, 90-4-1106, 90-4-1107, 90-4-1108, AND 90-4-1109, MCA**" for the following reasons.

House Bill 98 authorizes state agencies to enter into energy performance contracts, which under current law may be entered into by local governments. My amendment provides an immediate effective date, in order that contracts can be entered into by the state immediately under the American Recovery and Reinvestment Act of 2009.

I have discussed my proposed amendment with the sponsor of the bill, Rep. Dick Barrett, who supports the amendment

Sincerely,

BRIAN SCHWEITZER
Governor

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 98

Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:52am)

2. Title, line 6.

Strike: "AND"

3. Title, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 8, line 20.

Insert: "NEW SECTION. Section 14. {standard} Effective date. [This act] is effective on passage and approval."

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/9/2009

HB 269, introduced by Mehlhoff

HB 449, introduced by McChesney

HB 608, introduced by Sesso

Senate bill concurred in and returned to the Senate:

4/14/2009

SB 234, introduced by Gillan

Free Conference Committee Report No.1 adopted:

4/14/2009

SB 108, introduced by Jent

HB 531 - The House failed to concur in Senate amendments to **HB 531**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 531**:

4/9/2009

Representative Kottel, Chair

Representative Ankney

Representative Nooney

Representative Phillips

Representative Sonju

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/9/2009

SB 131, introduced by Williams

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

SB 176, introduced by Perry

Senate bills not concurred in and returned to the Senate: 4/9/2009

SB 229, introduced by Perry

SB 249, introduced by Curtiss

Free Conference Committee Report No.1 adopted on Third Reading: 4/9/2009

SB 108, introduced by Jent

Conference Committee Report No.1 adopted on Third Reading: 4/9/2009

SB 73, introduced by Hawks

HB 228, introduced by Kerns

HB 622, introduced by Himmelberger

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 37, introduced by Shockley (by request of Senate State Administration Standing Committee), referred to State Administration.

MOTIONS

Senator Peterson moved the Senate recess for caucuses. Motion carried.

Senate in recess.

Senate reconvened.

Roll Call. All members present. Quorum present.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 2 concurred in, as amended, as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Total 0

Excused: None.

Total 0

HB 9 concurred in, as amended, as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 40

Nays: Balyeat, R. Brown, T. Brown, Essmann, Hinkle, Jackson, McGee, Shockley, Tutvedt, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator R. Brown introduced the Pages for the week of April 14-18, 2009.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 645 - Senator Esp moved **HB 645** be concurred in.

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page E-4.

Following: line 5

Insert: "Total fiscal year 2010 expenditures from the line item Stabilization Funding for K-12 Education may be included in the base budget for the purposes of 17-7-111 for the 2013 biennium budget in accordance with [section 18]. These expenditures may be funded with general fund in the present law base for the 2013 biennium executive budget in accordance with [section 18]."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page 72, line 14.

Strike: "\$3.5"

Insert: "\$2.5"

2. Page F-1, line 7.

Strike: "-200,000 -200,000 [Federal Special Revenue FY 2010 & FY 2011]"

3. Page F-1, line 13.

Following: "~~Improvements~~"

Strike: "REPAYMENT"

Insert: "Capital Projects"

4. Page F-1, line 15.

Strike: "7,519,000 7,519,000 [Federal Special Revenue FY 2010 & FY 2011]"

Insert: "6,519,000 6,519,000 [Federal Special Revenue FY 2010 & FY 2011]"

5. Page F-1, line 16.

Following: "e."

Strike: "Long-Range Building Program"

Insert: "State"

Following: "Conservation"

Strike: "Improvements"

Insert: "Repayment Account"

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 30

Nays: Balyeat, Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 20

Absent or not voting: None.

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Total 0

Excused: None.

Total 0

Senators Hansen and Laible excused at this time.

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page 53, line 17.

Following: "IMPLEMENT"

Strike: "THE WORKER TRAINING PROGRAM AND"

Following: "BROADBAND"

Strike: "MATCHING GRANT"

Insert: "mapping"

2. Page 64, line 16.

Following: "MAINTENANCE"

Insert: "on school facilities"

3. Page 65, line 4.

Following: "FACILITIES"

Strike: "BECAUSE OF A CALAMITOUS EVENT"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 22

Absent or not voting: None.

Total 0

Excused: Hansen, Laible.

Total 2

Senators Hansen and Laible present at this time.

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page A-8.

Following: line 11

Insert: "Montana Agro-Energy Industrial Park is restricted to grant funding for the development of the Montana Agro-Energy Industrial Park."

Amendment adopted as follows:

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Branae, Hamlett, Hawks, Juneau, Kaufmann, Larsen, Moss, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried.

Total 12

Absent or not voting: None.

Total 0

Excused: Keane.

Total 1

Senator Keane excused at this time.

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page 63, line 14.

Following: "RETAIN"

Strike: "1.25%"

Insert: "1.13%"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 36

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hansen, Juneau, Kaufmann, Larsen, Moss, Schmidt, J. Tropila, M. Tropila, Wanzenried.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page A-5

Strike: Lines 7 and 8 in their entirety.

Renumber: Subsequent sections.

Amendment adopted as follows:

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Juneau, Kaufmann, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 645 - Senator Wanzenried moved **HB 645**, second reading copy, be amended as follows:

1. Page E-4, following line 3.

Insert: "One-time-only funding used to fund the basic and per-ANB entitlement in the 2011 biennium must be included in the base from which the inflation factor in 20-9-326 is calculated by the superintendent of public instruction in preparing and submitting a budget for K-12 public education for the 2013 biennium pursuant to 17-7-111 and 17-7-112. The statewide present law base for purposes of the 2013 biennium executive budget for the at-risk student payment provided in 20-9-328 must be \$10 million."

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Juneau excused at this time.

HB 645 - Senator Hawks moved **HB 645**, second reading copy, be amended as follows:

1. Page E-7.

Following: line 12

Insert: "i. Fund College Affordability Plan for the 2011 Biennium
2,702,558 4,264,330" [general fund FY10 & FY11]

Amendment **not** adopted as follows:

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Juneau.
Total 1

Senator Juneau present at this time.

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page A-5, line 5.

Strike: "COMMUNITY AND"

2. Page A-5, line 6.

Strike: "6,500,000" [General fund FY 10]

Insert: "4,500,000" [General fund FY 10]

3. Page A-8, line 14 and line 15.

Strike: "COMMUNITY AND" on line 14

Following: "GRANTS" on line 14

Strike: remainder of line 14 through "\$4,500,000" on line 15

Insert: "is"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Nays: Branae, Cooney, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 645 - Senator Laible moved **HB 645**, second reading copy, be amended as follows:

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

1. Page E-5.

Following: line 9

Insert: "c. 2-Year Extention Campuses 750,000" [general fund FY10]

2. Page A-5, line 6.

Strike: "6,500,000" [general fund FY10]

Insert: "5,750,000" [general fund FY10]

Amendment **not** adopted as follows:

Yeas: Barkus, Branae, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hawks, Kaufmann, Laible, Larsen, Schmidt, Windy Boy, Zinke.

Total 15

Nays: Bales, Balyeat, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Jent, Juneau, Keane, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Mr. President.

Total 35

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Hawks moved **HB 645**, second reading copy, be amended as follows:

1. Page E-3, following line 9.

Insert: "k. At-Risk Payment 4,999,999 4,999,999"

[General Fund FY10 FY11]

2. Page E-4, following line 5.

Insert: "The line item At-Risk Payment, along with the At-Risk Payment in House Bill 2, is to be added to school districts' BASE budget and maximum budget in the 2011 biennium."

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Total 0

HB 645 - Senator Balyeat moved **HB 645**, second reading copy, be amended as follows:

1. Page B-6, line 16.

Strike: "MENTAL HEALTH CRISIS DIVERSION PILOT PROGRAM"

Insert: "Community Mental Health Crisis Services Demonstration Project"

2. Page B-9, line 11.

Strike: "MENTAL HEALTH CRISIS DIVERSION PILOT PROGRAM"

Insert: "Community Mental Health Crisis Services Demonstration Project"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page 71, line 1.

Strike: "BASE aid"

Insert: "Stabilization Funding for K-12 Education"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Excused: None.
Total 0

HB 645 - Senator Williams moved **HB 645**, second reading copy, be amended as follows:

1. Page D-1, line 6.
Strike: "125,000 125,000" [General Fund FY 2010 and FY 2011]
Insert: "247,500 247,500" [General Fund FY 2010 and FY 2011]

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 645 - Senator Williams moved **HB 645**, second reading copy, be amended as follows:

1. Page D-1, line 6.
Strike: "125,000 125,000" [General Fund FY 2010 and FY 2011]
Insert: "247,500 247,500" [General Fund FY 2010 and FY 2011]

2. Page D-3, line 3.
Strike: "500,000" [General Fund FY 2010]
Insert: "255,000" [General Fund FY 2010]

Amendment **not** adopted as follows:

Yeas: Balyeat, Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 19

Nays: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 31

Absent or not voting: None.
Total 0

Excused: None.

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Total 0

HB 645 - Senator Black moved **HB 645**, second reading copy, be amended as follows:

1. Page C-2.

Strike: line 4 through line 6

Renumber: subsequent subsections

2. Page C-3.

Following: line 13

Insert: "b. Rail Transit Authority 49,354 50,000" [general fund FY10 and FY11]

3. Page C-3.

Following: line 16

Insert: "If Senate Bill No. 291 is not passed and approved, Rail Transit Authority is void."

Amendment adopted as follows:

Yeas: Barkus, Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hamlett, Hansen, Hinkle, Jackson, Laible, Lewis, Murphy, Perry, Peterson, Ripley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 26

Nays: Bales, Balyeat, Branae, R. Brown, Cooney, Erickson, Gallus, Gillan, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, McGee, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Kaufmann moved **HB 645**, second reading copy, be amended as follows:

1. Page 14, line 18.

Strike: "81"

Insert: "82"

2. Page 15, line 15.

Strike: "81"

Insert: "82"

3. Page 24, line 14.

Strike: "81"

Insert: "82"

4. Page 24, line 17.

Strike: "81"

Insert: "82"

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

5. Page 63, line 12.

Strike: "\$45"

Insert: "\$35.9"

6. Page 63, line 13.

Strike: "81"

Insert: "82"

Strike: "\$10" in both places

Insert: "\$5.45" in both places

7. Page 63, line 20 through line 21.

Strike: "\$100,000 PLUS THE PROPORTIONAL" on line 20

Insert: "an equal"

Following: "FUNDS" on line 20

Strike: remainder of line 20 through "(3)" on line 21

8. Page 64, line 1.

Strike: "\$10"

Insert: "\$5.45"

9. Page 65, line 7.

Strike: "81"

Insert: "82"

10. Page 65, line 10.

Strike: "81"

Insert: "82"

11. Page 71, line 7.

Strike: "81"

Insert: "82"

12. Page 72, line 6.

Strike: "81"

Insert: "82"

13. Page 73, line 1.

Strike: "81"

Insert: "82"

14. Page 73, line 10.

Strike: "81"

Insert: "82"

15. Page 73, line 17.

Strike: "81"

Insert: "82"

16. Page 74, line 3.

Strike: "81"

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Insert: "82"

17. Page 74.

Following: line 3

Insert: "COORDINATION SECTION. **Section 75. Coordination instruction.** If House Bill No. 676 and [this act] are both passed and approved, then [section 18] of House Bill No. 676, amending 53-4-1004, is void."

Renumber: subsequent sections

18. Page 75, line 10.

Strike: "81"

Insert: "82"

19. Page A-3, line 4.

Strike: "3,752,548 3,747,452" [general fund FY10 and FY11]

Insert: "2,752,548 2,747,452" [general fund FY10 and FY11]

20. Page A-5, line 4.

Strike: "23,000,000" [general fund FY10 and FY11]

Insert: "13,874,476" [general fund FY10 and FY11]

21. Page B-6, following line 7.

Insert: "g. Healthy Montana Kids (Restricted)"

"5,413,433 5,712,090" [general fund FY10 and FY11]

"18,434,291 19,090,732" [federal special fund FY10 and FY11]

22. Page B-9, following line 8.

Insert: "Healthy Montana Kids may be used only to implement the healthy Montana kids program. Funding in Healthy Montana Kids may be distributed among programs when the department develops 2011 biennium operating plans."

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Esp moved **HB 645**, second reading copy, be amended as follows:

1. Page B-8.

Following: line 10

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Insert: "In granting the funds for Health Information Technology -- 2010-11, the department shall seek a nonprofit entity that is governed by a board of directors made up of members who provide a good geographic and demographic representation of the state and who represent the constituents interested in health care information technology, including but not limited to physicians, health care facilities, insurers, telemedicine providers, and government agencies."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 31

Nays: Branae, Cooney, Gallus, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Brueggeman moved **HB 645**, second reading copy, be amended as follows:

1. Page 64, line 1.

Following: "OF"

Insert: "50% of"

2. Page 64, line 2.

Following: "101(2)(C)"

Insert: "and a proportional share of 50% of the funds distributed based upon the percentage that the population of each city or town bears to the total population of all cities and towns"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Juneau, Kaufmann, Moss, Wanzenried.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

HB 645 - Senator M. Tropila moved **HB 645**, second reading copy, be amended as follows:

1. Page E-4.

Following: line 5

Insert: "MONTANA SCHOOL FOR THE DEAF AND BLIND (5113)

1. Education Program (04)

 a. Special Needs Equipment

 16,507 [general fund FY10] "

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Esp moved **HB 645**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 27

Nays: Balyeat, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Hansen moved to change his vote on Amendment # 645-004 from no to yes. Without objection, so ordered.

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Senator Brenden moved to change his vote on Amendment # 645-033 from no to yes. Without objection, so ordered.
Senator Jent moved to change his vote on Amendment # 645-024 from no to yes. Without objection, so ordered.

Senator Peterson moved the Senate recess until 2:30 p.m. Motion carried.

Senate in recess.

Senate reconvened at 2:30 p.m.

Roll Call. All members present, except Senator Tutvedt, excused. Quorum present.

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SR 38, introduced by Laible, referred to Education and Cultural Resources (by request of Senate Education and Cultural Resources Standing Committee).

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Zinke in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 676 - Senator Bales moved **HB 676** be concurred in.

HB 676 - Senator Williams moved **HB 676**, second reading copy, be amended as follows:

1. Title, page 1, line 27.

Strike: "REVISING THE ALLOCATION OF PREMIUM TAXES;"

2. Title, page 2, line 1.

Strike: "33-2-708,"

Strike: "53-4-1115,"

3. Page 24, line 17 through page 26, line 5.

Strike: section 15 in its entirety

Renumber: subsequent sections

4. Page 31, line 12 through line 30.

Strike: section 21 in its entirety

Renumber: subsequent sections

5. Page 37, line 26.

Strike: "26"

Insert: "24"

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

6. Page 37, line 27.

Strike: "26"

Insert: "24"

Amendment **not** adopted as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 24

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 26

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 676 - Senator Windy Boy moved **HB 676**, second reading copy, be amended as follows:

1. Title, line 11.

Following: "ALTERNATIVES;"

Insert: "REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO FOLLOW CULTURAL PROTOCOLS IN GRANTS AND CONTRACTS; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO FORM A CULTURAL ADVISORY COUNCIL TO DETERMINE CULTURAL APPROPRIATENESS FOR INDIAN EDUCATION FOR ALL;"

2. Page 2, line 8.

Following: line 7

Insert: "NEW SECTION. Section 1. Cultural protocols required. (1) When an employee of the department of public health and human services is implementing state or federal grants or granting contracts and if any criteria of the grants or contracts involves cultural appropriateness and Indian tribes or culture, the employee shall follow a cultural protocol prescribed by the relevant entity described in subsection (2) for the determination of appropriateness regarding tribal cultural property, culture, or Indian subjects associated with or claimed by a prospective grantee or contractor.

(2) An employee of the department shall contact a tribal entity that is involved or referred to in a granting or contracting process, which may include a cultural commission, cultural advisory board, or tribal government, depending on the specific tribal government or a tribal representative designated through a tribal resolution process.

(3) To ensure that tribal governments and the appropriate designated entity are involved in determining cultural appropriateness, an employee of the department shall follow the guiding principles provided in 2-15-142 in cooperating with the entity that designates the cultural protocol."

Renumber: subsequent sections

3. Page 21, line 19.

Following: line 18

Insert: "NEW SECTION. Section 15. Cultural advisory council for Indian education for all. In developing curricula and materials to assist public school districts and to guide use of the Indian education for all payment

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

provided for in 20-9-329, the superintendent of public instruction shall form a cultural advisory council to provide recommendations for curriculum decisions for Indian education for all. Each member of the advisory council must be a representative of a reservation or the Little Shell tribe nominated by the tribal council. Curricula regarding a specific tribe or reservation may not be adopted unless approved by the cultural advisory council."

Renumber: subsequent sections

4. Page 37, line 26.

Following: "instruction."

Insert: "(1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 22, and the provisions of Title 2, chapter 15, part 22, apply to [section 1].

(2) [Section 15] is intended to be codified as an integral part of Title 20, chapter 1, part 5, and the provisions of Title 20, chapter 1, part 5, apply to [section 15].

(3)"

Strike: "26"

Insert: "28"

5. Page 37, line 27.

Strike: "26"

Insert: "28"

6. Page 38, line 1.

Strike: "7"

Insert: "8"

7. Page 38, line 3.

Strike: "14"

Insert: "16"

8. Page 38, line 6.

Strike: "9 THROUGH 11"

Insert: "10 through 12"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 32

Nays: Branae, T. Brown, Cooney, Erickson, Gillan, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 676 - Senator Hinkle moved **HB 676**, second reading copy, be amended as follows:

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

1. Title, page 1, lines 18 through 20.

Following: "PLAN;" on line 18

Strike: remainder of line 18 through "CONTRACEPTION;" on line 20

2. Title, page 2, line 1.

Strike: "53-4-1005,"

3. Page 30, line 9 through line 28.

Strike: section 19 in its entirety

4. Page 37, line 26.

Strike: "26"

Insert: "25"

5. Page 37, line 27.

Strike: "26"

Insert: "25"

Amendment **not** adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Mr. President.

Total 20

Nays: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 676 - Senator Bales moved **HB 676**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keane, Laible, Lewis, Murphy, Perry, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 26

Nays: Balyeat, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Larsen, Laslovich, McGee, Moss, Schmidt, Shockley, Squires, M. Tropila, Wanzenried, Williams.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Senator Zinke assumed the chair.

HB 5 - Senator Barkus moved **HB 5** be concurred in.

HB 5 - Senator Barkus moved **HB 5**, second reading copy, be amended as follows:

1. Page 6, line 16.

Strike: "(5)"

Insert: "(4)"

2. Page 6, line 19.

Strike: "(5)"

Insert: "(4)"

3. Page 6, line 21.

Strike: "(5)"

Insert: "(4)"

4. Page 7, line 3 through line 4.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

5. Page 7, line 7.

Strike: "(4)"

Insert: "(3)"

6. Page 11, line 11.

Strike: in both places "9,697,000 [Federal Special Revenue & Total]"

Insert: in both places "8,697,000 [Federal Special Revenue & Total]"

7. Page 12, line 10 through line 12.

Strike: line 10 through line 12 in their entirety

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

HB 5 - Senator Barkus moved **HB 5**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Gillan, Juneau, Kaufmann, Moss, Wanzenried.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 10 - Senator Brueggeman moved consideration of **HB 10** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

HB 11 - Senator Brueggeman moved **HB 11** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Balyeat, Juneau.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 128 - Senator M. Tropila moved **HB 128** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 44

Nays: Balyeat, Brenden, Hinkle, McGee, Shockley, Mr. President.
Total 6

Absent or not voting: None.
Total 0

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Excused: None.
Total 0

HB 152 - Senator Laible moved **HB 152** be concurred in.

HB 152 - Senator Branae moved **HB 152**, second reading copy, be amended as follows:

1. Title, line 8.

Strike: "AN EQUITABLE FORMULA"

Insert: "CRITERIA AND PRIORITIES"

2. Page 2, line 2.

Following: "facilities"

Insert: "; and

WHEREAS, the Department of Commerce efficiently and effectively administers the Treasure State Endowment Program to assist local governments in funding infrastructure projects; and

WHEREAS, the Legislature seeks to commit ongoing state resources to school facilities by establishing a program to administer the award to public school districts for school facility project grants, matching planning grants, and emergency grants using the Treasure State Endowment Program as a model"

3. Page 2, line 11.

Strike: "8"

Insert: "9"

4. Page 2, line 14.

Strike: "8"

Insert: "9"

5. Page 3, line 1.

Following: "8"

Insert: "9"

6. Page 3, line 22.

Strike: "8"

Insert: "9"

7. Page 4.

Following: line 1

Insert: "(a) receive proposals for school facility projects from public school districts;

(b) assist public school districts in preparing cost estimates for projects;"

Renumber: subsequent subsections

8. Page 4.

Following: line 6

Insert: "(d) with the exception of emergency grants and matching planning grants, prepare and submit to the governor a list of recommendations as to projects and the form and amount of financial assistance for each project, prioritized in accordance with the requirements of [section 6];"

Renumber: subsequent subsections

9. Page 4, line 9.

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Following: "grants;"

Insert: ", "

10. Page 4, line 12.

Strike: "THE FORMULA PROVIDED FOR IN"

Insert: "rules adopted by the department, to public school districts for the planning of school facility projects within the limits of legislative appropriations for this purpose. The department shall prioritize the award of matching planning grants in accordance with the requirements of"

11. Page 4.

Following: line 19

Insert: "(2) The governor shall review the projects recommended by the department under subsection (1)(d) and submit to the legislature a list of recommendations as to projects and the form and amount of financial assistance for each project."

Renumber: subsequent subsections

12. Page 4, lines 20 and 21.

Strike: "(2)" on line 20

Insert: "(3) (a)"

Following: "shall" on line 20

Strike: remainder of line 20 through "7]." on line 21

Insert: ":

(i) consider the governor's recommendations, approve grants to public school districts for school facility projects, and appropriate money to the department from the account to fund the grants that have been approved, after the deduction of administrative expenses by the department; and

(ii) authorize funding and appropriate money to the department from the account to be awarded to public school districts by the department for matching planning grants and emergency grants, after the deduction of administrative expenses by the department.

(b) Grants approved by the legislature are dependent on the availability of funds and will be made available by the department in the order that the grant recipient satisfies the conditions described in [section 7]."

13. Page 5, line 29 through page 6, line 3.

Strike: section 6 in its entirety

"NEW SECTION. Section 6. Priorities for projects -- application of criteria -- consideration of project attributes -- adjustments for educationally relevant factors. (1) In preparing recommendations to the governor under [section 5], the department shall apply the following criteria to applications for school facility projects in the listed order of priority:

(a) projects that solve urgent and serious public health or safety problems or that enable public school districts to meet state or federal health or safety standards;

(b) projects that provide improvements necessary to bring school facilities up to current local, state, and federal codes and standards;

(c) projects that enhance a public school district's ability to offer specific services related to the requirements of the accreditation standards provided for in 20-7-111;

(d) projects that provide long-term, cost-effective benefits through energy-efficient design;

(e) projects that incorporate long-term, cost-effective benefits to school facilities, including the technology needs of school facilities; and

(f) projects that enhance educational opportunities for students.

(2) In applying the criteria under subsection (1), the department shall consider, without preference or priority, the following attributes of a school facility project application:

(a) the need for financial assistance;

(b) the fiscal capacity of the public school district to meet the conditions established in [section 7];

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

(c) past efforts to ensure sound, effective, long-term planning and management of the school facility and attempts to address school facility needs with local resources;

(d) the ability to obtain funds from sources other than the funds provided under [sections 1 through 9]; and

(e) the importance of the project and support for the project from the community.

(3) Before making its recommendations to the governor, the department may make adjustments to its ranking of the projects based on the educationally relevant factors established in 20-9-309. Before making any adjustments, the department may consult with the office of public instruction concerning the educationally relevant factors.

14. Page 6.

Following: line 6

Insert: "(1) A grant agreement must be executed between the department and the grant recipient.

(2) The scope of work and budget for the project must be consistent with the application submitted by the grant recipient, reviewed by the department, and approved by the legislature. The department will consider requests to reduce the scope of a project in accordance with rules adopted by the department."

Renumber: subsequent subsections

15. Page 6.

Following: line 19

Insert: "(6) The grant recipient shall satisfy other specific requirements considered necessary by the department to accomplish the purpose of the project as described in the application to the department."

16. Page 6.

Following: line 29

Insert: "NEW SECTION. Section 8. Disbursement of funds -- department discretion when actual expenses are less than projected expenses. (1) The department shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected project expenses, the department may, at its discretion:

(a) direct an outright or partial reduction in the amount of grant funds provided to the grant recipient; or

(b) allow the use of the remaining authorized program grant amounts for the completion of additional school facility improvements directly related to the approved school facility project that will further enhance the school facility."

Renumber: subsequent sections

17. Page 7, lines 2 and 3.

Strike: "8" on line 2

Insert: "9"

Following: "~~regarding~~" on line 2

Strike: remainder of line 2 through "ACCOMPLISHED." on line 3

Insert: " rules regarding:

(1) application guidelines and deadlines;

(2) the evaluation process and ranking of applications;

(3) grant award conditions, including requirements for matching funds;

(4) scope and procedures for the award of matching planning grants and emergency grants;

(5) amendments to grant awards; and

(6) grant administration, including but not limited to requirements for:

(a) the project's startup;

(b) compliance with other federal, state, or local laws, regulations, or requirements;

(c) financial management related to the project;

(d) property acquisition;

(e) project and grant management;

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

- (f) project monitoring; and
- (g) project closeout procedures."

18. Page 7, line 19.

Following: "~~proposals~~,"

Insert: "after receiving and evaluating proposals,"

19. Page 7, line 20.

Strike: "SHALL"

Insert: "may"

20. Page 7, line 23.

Strike: "7"

Insert: "8"

Strike: "8"

Insert: "9"

21. Page 9, line 30.

Following: "and"

Insert: "and"

22. Page 10, lines 1 and 2.

Following: "77-4-208" on line 1

Strike: remainder of line 1 through "ACCOUNT" on line 2

23. Page 11, line 17.

Strike: "8"

Insert: "9"

24. Page 11, line 19.

Strike: "8"

Insert: "9"

25. Page 11, line 29.

Strike: "17"

Insert: "18"

Amendment adopted as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 24

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Excused: None.
Total 0

HB 152 - Senator Hawks moved **HB 152**, second reading copy, be amended as follows:

1. Page 11, lines 29 and 30.

Following: "payments" on line 29

Strike: remainder of line 29 through "2010" on line 30

Insert: "beginning January 1, 2011"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Ripley.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 152 - Senator Laible moved **HB 152**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 38

Nays: Balyeat, Barkus, Brenden, Curtiss, Esp, Essmann, Hinkle, Jackson, McGee, Ripley, Tutvedt, Mr. President.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 224 - Senator Lewis moved **HB 224** be concurred in. Motion carried as follows:

Yeas: Barrett, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 35

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Nays: Bales, Balyeat, Barkus, Black, Brenden, R. Brown, Curtiss, Esp, Hinkle, Jackson, Laible, Ripley, Shockley, Steinbeisser, Mr. President.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 258 - Senator Larsen moved **HB 258** be concurred in. Motion carried as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Peterson, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 34

Nays: Bales, Balyeat, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, Lewis, McGee, Murphy, Perry, Ripley, Schmidt, Shockley, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 459 - Senator Hawks moved **HB 459** be concurred in.

HB 459 - Senator Hawks moved **HB 459**, second reading copy, be amended as follows:

1. Page 1, lines 17 and 18.

Following: "all"

Insert: "school-age children through"

Following: "districts"

Strike: "AND STUDENTS REGISTERING WITH A COUNTY SUPERINTENDENT"

Amendment adopted as follows:

Yeas: Barrett, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 34

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Laible, McGee, Murphy, Peterson, Mr. President.

Total 16

Absent or not voting: None.

Total 0

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Excused: None.
Total 0

HB 459 - Senator Hawks moved **HB 459**, as amended, be concurred in. Motion carried as follows:

Yeas: Barrett, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 30

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Shockley, Steinbeisser, Mr. President.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 464 - Senator T. Brown moved **HB 464** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Erickson, Essmann, Hinkle, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 331 - Senator Gebhardt moved **HB 331** be concurred in.

HB 331 - Senator Jackson moved **HB 331**, second reading copy, be amended as follows:

1. Title, page 1, line 6.
Following: "50-50-102,"
Insert: "50-50-103,"
Strike: "50-50-305,"
Strike: "50-51-303,"

2. Title, page 1, line 7.
Strike: "50-52-302,"
Insert: "AND"
Strike: "AND 50-57-305,"

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

3. Page 1, line 11 through page 10, line 11.

Strike: everything after the enacting clause

Insert: "Section 1. Section 50-50-103, MCA, is amended to read:

"50-50-103. Department authorized to adopt rules -- advisory council. (1) To protect public health, the department may adopt rules relating to the operation of establishments defined in 50-50-102, including coverage of food, personnel, food equipment and utensils, sanitary facilities and controls, construction and fixtures, and housekeeping.

(2) (a) The department and local health authorities may not adopt rules prohibiting the sale of baked goods and preserves by nonprofit organizations or by persons at farmer's markets.

(b) The department and local health authorities may not require that foods sold pursuant to this subsection (2) be prepared in certified or commercial kitchens.

(3) (a) The department shall ~~use~~ establish a food safety task force or advisory council to assist in the development of administrative rules or to review any proposed legislation related to the provisions of this chapter.

(b) The task force or advisory council must be composed of equal numbers of representatives of the food establishments and representatives of state and local government.

(c) ~~Administrative~~ The department shall present administrative rules and any legislation to be proposed by the department must be presented to the task force or advisory council prior to its proposal or introduction. When the department learns of proposed legislation related to the provisions of this chapter that has not been proposed by the department, the department shall provide copies of that legislation for review by the task force or advisory council and shall provide to the legislature any comments of the task force or advisory council."

Insert: "Section 2. Section 50-50-205, MCA, is amended to read:

"50-50-205. License fee -- late fee -- preemption of local authority -- exception. (1) (a) ~~Except as provided in subsection (1)(b), for each license issued, the~~ The department shall collect for each license issued or renewed a fee of \$90 as provided in subsection (1)(b). It shall deposit 90% of ~~Of the fees collected under this section,~~ 90% must be deposited into the local board inspection fund account created in 50-2-108, ~~5% of the fees~~ 5% of the fees into the account provided for in 50-50-216.

(b) ~~For each license issued to an establishment that does not have more than two employees working at any one time, the department shall collect a fee of \$60, which must be deposited in accordance with the percentages provided in subsection (1)(a):~~

(b) License fees are:

(i) \$60 annually for a carryout only or mobile establishment that has less than 12 square feet of preparation area;

(ii) \$90 annually for an establishment that has an occupancy space for 10 or fewer customers, an establishment that provides catering services but serves no meals onsite, or an establishment that has more than 12 square feet of preparation area and otherwise qualifies under subsection (1)(b)(i);

(iii) \$110 annually for an establishment that has an occupancy space for 11 to 60 customers; or

(iv) \$120 annually for an establishment that has an occupancy space for more than 60 customers.

(2) (a) In addition to the license fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year.

(b) The late fee ~~is \$25 and~~ must be deposited in the account provided for in 50-50-216.

(3) A county or other local government may not impose an inspection fee or charge in addition to the fee provided for in subsection (1) unless a violation of this chapter or rule persists and is not corrected after two visits to the establishment.

(4) The fees in subsections (1) and (2) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party. However, the discounting of license fees may not reduce the fees paid into the local board inspection fund account established in 50-2-108."

Insert: "Section 3. Section 50-51-204, MCA, is amended to read:

"50-51-204. License fee -- late fee. (1) (a) ~~There shall be paid to the department with each application for such~~ The department shall collect fees for each license required under 50-51-201 or for each annual license renewal of such license an annual license fee of \$40 as provided in subsection (1)(b). The department shall deposit 85% of the

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

fees collected under this section into the local board inspection fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees into the account provided for in 50-51-110.

(b) Initial and renewal license fees are:

(i) \$40 annually for an establishment with no more than 10 rooms available for rental;

(ii) \$80 annually for an establishment with more than 10 but not more than 25 rooms available for rental; and

(iii) \$160 annually for an establishment with more than 25 rooms available for rental.

(2) (a) In addition to the license renewal fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of ~~his~~ the licensee's current license and who operates an establishment governed by this part in the next licensing year.

(b) The late fee is \$25 and must be deposited in the account provided for in 50-51-110."

Insert: "Section 4. Section 50-52-202, MCA, is amended to read:

"50-52-202. License fee -- late fee. (1) (a) Each application ~~shall~~ for a new license required under 50-52-103 or a license renewal must be accompanied by a fee of \$40 as provided in subsection (1)(b).

(b) License fees are:

(i) \$40 annually for a campground or trailer court with no more than 10 spaces available for rental;

(ii) \$60 annually for a campground or trailer court with more than 10 but not more than 25 spaces available for rental; and

(iii) \$120 annually for a campground or trailer court with more than 25 spaces available for rental.

(2) ~~The~~ Of the fees collected under subsection (1), the department shall deposit 85% of the fees collected under subsection (1) into the local board inspection fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees collected under subsection (1) into the account provided for in 50-52-210.

(3) (a) In addition to the license renewal fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of ~~his~~ the licensee's current license and who operates an establishment governed by this part in the next licensing year.

(b) The late fee is \$25 and must be deposited in the account provided for in 50-52-210."

Insert: "Section 5. Section 50-57-205, MCA, is amended to read:

"50-57-205. License fee -- late renewal fee -- allocation of fees. (1) For each annual license issued or renewed, the department shall collect a fee of \$90. ~~For an operation containing an establishment and a retail food establishment, as provided in 50-57-201(3), the department shall collect one fee of \$90 for each license as provided in subsection (2).~~

(2) (a) Except as provided in subsection (2)(b), a license fee is \$90 annually for an establishment that occupies less than 5,000 square feet of retail space and \$160 annually for an establishment that occupies 5,000 or more square feet of retail space.

(b) The fees for separate types of establishments on the same premises and under the same management are the total of the fees required for each establishment, whether one license is issued as provided in 50-57-201(2) or separate licenses are issued as provided in 50-57-201(3).

~~(2)~~ (3) A person operating an establishment who fails to renew a license by the expiration date provided in 50-57-206 and who operates the establishment in the license year for which an annual renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the annual renewal fee required by subsection ~~(1)~~ (2). Payment of the late renewal fee does not relieve the operator of responsibility for operating without a license.

~~(3)~~ (4) The department shall deposit the annual fees collected under subsection ~~(1)~~ (2) as follows:

(a) 90% into the state special revenue fund to the credit of the local board inspection fund account, created in 50-2-108;

(b) 5% into the general fund; and

(c) 5% into the account created in 50-57-213 in the state special revenue fund.

~~(4)~~ (5) The department shall deposit all of the fees collected under subsection ~~(2)~~ (3) into the account created by 50-57-213 in the state special revenue fund."

Amendment adopted as follows:

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Cooney, Erickson, Hansen, Kaufmann, M. Tropila.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 331 - Senator Gebhardt moved **HB 331**, as amended, be concurred in. Motion carried as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laslovich, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.

Total 31

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Hinkle, Jackson, Laible, Larsen, Lewis, Perry, Steinbeisser, M. Tropila, Tutvedt, Zinke.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 10 - Senator Brueggeman moved **HB 10** be concurred in.

HB 10 - Senator Brueggeman moved **HB 10**, second reading copy, be amended as follows:

1. Page 3, line 14 through line 15.

Following: "RISK,"

Strike: remainder of line 14 through "MUST" on line 15

Insert: "a scoring preference for bidders of not less than 10% of the total scoring for the request for proposals for the unemployment insurance tax modernization project must be established and may be given only to vendors who"

2. Page 3, line 15 through line 16.

Following: "PROJECT,"

Strike: remainder of line 15 through "MEET" on line 16

Insert: "that meets"

3. Page 3, line 16.

Following: "REQUIREMENTS."

Insert: "In responding to the request for proposals, each vendor shall identify in what states the vendor's substantially

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

similar project has been installed, how long it has been in production, and whether the project meets all federal department of labor reporting requirements."

4. Page 4, line 1 through line 2.

Following: "MUST HAVE"

Strike: remainder of line 1 through line 2 in their entirety

Insert: "experience, proven performance, corporate resources, and corporate qualifications in large-scale data processing system development along with health care claims processing experience in system planning, design, development, implementation, and operation. In responding to the request for proposals, each vendor shall identify whether the vendor's proposed solution is substantially similar to a project that has been installed in another state, how long the project has been in production, and whether the project has been approved by the centers for medicare and medicaid services."

Amendment adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Jent excused at this time.

HB 10 - Senator Brueggeman moved **HB 10**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Balyeat, Barkus, Brenden, R. Brown, Curtiss, Esp, Hinkle, Jackson, Juneau, McGee, Shockley, Tutvedt.

Total 12

Absent or not voting: None.

Total 0

Excused: Jent.

Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

arose. Senate resumed. President Story in the chair. Chairman Zinke moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Zinke in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 578 - Senator Hinkle moved **HB 578** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 629 - Senator Story moved **HB 629** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 40

Nays: Cooney, Hansen, Hawks, Juneau, Kaufmann, Larsen, Moss, M. Tropila, Wanzenried, Williams.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 659 - Senator Brueggeman moved **HB 659** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barrett, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Kaufmann, Larsen, Laslovich, Lewis, Moss, Perry, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 32

SENATE JOURNAL
SEVENTY-NINTH LEGISLATIVE DAY - APRIL 14, 2009

Nays: Bales, Barkus, Black, Brenden, R. Brown, Erickson, Essmann, Gebhardt, Jackson, Juneau, Keane, Laible, McGee, Murphy, Peterson, Steinbeisser, J. Tropila, Tutvedt.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Zinke moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 10:00 a.m., Wednesday, April 15, 2009. Motion carried.

Senate adjourned at 6:37 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTIETH LEGISLATIVE DAY**

Helena, Montana
April 15, 2009

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Black, Branae, T. Brown, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Kaufmann, Schmidt, Stewart-Peregoy, and Tutvedt, excused. Quorum present.

BILLS AND JOURNALS:

4/15/2009

Correctly printed: **SR 37, SR 38, HB 11, HB 128, HB 224, HB 258, HB 464, HB 578, HB 629, HB 659.**

Correctly engrossed: **HB 5, HB 10, HB 152, HB 331, HB 459, HB 645, HB 676.**

Correctly enrolled: **SB 451, SB 462, SB 476.**

Examined by the sponsor and found to be correct: **SB 451, SB 462, SB 476.**

Delivered to the Governor for approval at 3:10 p.m., April 15, 2009: **SB 65, SB 73, SB 79, SB 108, SB 198, SB 231, SB 234, SB 350, SB 430.**

Stewart-Peregoy present at this time.

Senator Essmann present at this time.

Senator Kauffman present at this time.

April 10, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 301, **"AN ACT INCLUDING REASONABLE PARALEGAL FEES AS A COMPONENT OF ATTORNEY FEES THAT MAY BE AWARDED TO A PREVAILING PARTY IN CERTAIN CASES; DEFINING "PARALEGAL"; AMENDING SECTIONS 25-10-302 AND 37-61-215, MCA; AND PROVIDING AN APPLICABILITY DATE"** for the following reasons.

My amendment to HB 301 is offered to affirm and reinforce that paralegals must work under the supervision of a licensed attorney and may not engage in the unauthorized practice of law. I have discussed the amendment with the sponsor of the bill, Rep. Kottel, as well as a representative of the State Bar of Montana, and the Board of Paralegal Section of the State Bar, and all support the amendment.

Sincerely,

BRIAN SCHWEITZER

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Governor

Amendments to House Bill No. 301
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Susan Byorth Fox
November 4, 2009 (7:52am)

1. Page 2, line 3.

Following: line 2

Insert: "(3) A person may not practice as a paralegal except under the supervision of a licensed attorney and is prohibited from engaging in the unauthorized practice of law."

April 10, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 150, **"AN ACT CREATING THE MONTANA RECREATION RESPONSIBILITY ACT; PROVIDING THAT A PERSON WHO ENGAGES IN A SPORT OR RECREATIONAL OPPORTUNITY ASSUMES THE INHERENT RISKS IN THAT SPORT OR RECREATIONAL OPPORTUNITY AND IS RESPONSIBLE FOR INJURIES AND DAMAGES RESULTING FROM THOSE INHERENT RISKS; LIMITING THE LIABILITY OF THE NONGOVERNMENTAL PROVIDERS OF A SPORT OR RECREATIONAL OPPORTUNITY; CLARIFYING THAT A PROVIDER IS NOT REQUIRED TO ELIMINATE, ALTER, OR CONTROL THE INHERENT RISKS WITHIN A PARTICULAR SPORT OR RECREATIONAL OPPORTUNITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."**

My amendments to HB 150 accomplish three things. First and foremost, they add governmental entities within the protections of the bill. When Montanans adopted their Constitution in 1972, they abolished the doctrine of sovereign immunity under state law. That doctrine traces its origins to English common law, under which the government, i.e., the King, could do no wrong. Under the 1972 Constitution, Montanans decided that governmental entities would be responsible for their wrongdoings just as are private actors. A primary objection of mine to HB 150 in its current form is that it turns the 1972 Montana Constitution's abolition of sovereign immunity on its head, since all actors *except* the government are relieved from liability for inherent risks in sports and recreational activities. My amendment would treat the government the same as all other private parties.

As you know, under Article II, section 18 of the Montana Constitution, my amendment requires a 2/3 vote of each

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

house of the legislature. I ask you to join me in treating government providers of recreational activities, such as Universities and schools, in the same manner as private persons.

While offering an amendment to add governmental entities among those subject to the protections of this bill, I also proposed adding language to make clear that a provider is not only a "person" but includes corporations, partnerships, and other business entities.

Second, my amendments clarify that the Act does not apply to sports equipment or products in their design, manufacture, provision, or maintenance. In its current form, the bill states only that the Act does not apply to the design and manufacture of sports equipment or products. It is my understanding that the bill was never intended to apply to any aspect of deficient sports equipment. Rather, it was intended to apply to the inherent risk of the recreation activity, itself. My amendment ensures this result.

Finally, my amendments strike provisions in the first section of the bill that are of a philosophical nature. The limits on liability for providers of sports or recreational opportunity involving inherent risk are contained in section 3 of HB 150. Those limits are clear and, I believe, do not require further embellishment in section 1.

I believe these amendments are fair and, if adopted, will result in a clear and sound policy recognizing limits on liability of providers for risks inherent in recreational activities and sports.

I have discussed the amendments with the sponsor of the bill, Rep. Dee Brown, who supports the amendments. Please join her with your support, as well.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Amendments to House Bill No. 150
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Susan Byorth Fox
November 4, 2009 (7:52am)

1. Title, line 8.

Strike: "NONGOVERNMENTAL"

Following: "OPPORTUNITY;"

Insert: "PROVIDING GOVERNMENTAL IMMUNITY;"

2. Page 1, line 27.

Strike: "(1)"

3. Page 1, line 29 through page 2, line 8.

Strike: subsections (2) through (4) in their entirety

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

4. Page 2, line 14.

Strike: "other than"

Insert: "corporation, partnership, or other business entity, including"

Following: "entity"

Insert: "as defined in 2-9-111"

5. Page 3, line 2.

Following: "design"

Strike: "or"

Insert: ", "

Following: "manufacture"

Insert: ", provision, or maintenance"

6. Page 3, line 5 through line 6.

Strike: subsection (5) in its entirety

7. Page 4, line 1.

Insert: "NEW SECTION. **Section 7. Two-thirds vote required.** Because [section 3] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage."

Renumber: subsequent sections

MESSAGES FROM THE OTHER HOUSE

House joint resolution passed and transmitted to the Senate for concurrence:

4/14/2009

HJR 36, introduced by Kottel

Senate bills concurred in and returned to the Senate:

4/14/2009

SB 451, introduced by Wanzenried

SB 462, introduced by Steinbeisser

SB 476, introduced by Shockley

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/14/2009

SB 271, introduced by Squires

SB 369, introduced by Esp

Governor's amendments to House bill not concurred in and returned to the Senate:

4/14/2009

HB 418, introduced by Butcher

Conference Committee Report No.1 adopted:

4/14/2009

SB 48, introduced by Essmann

SB 310, introduced by Shockley

SB 427, introduced by Laslovich

HB 602, introduced by Cohenour

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

FIRST READING AND COMMITMENT OF BILLS

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 36, introduced by Kottel, More, Reinhart, Reichner, Augare, referred to Business, Labor, and Economic Affairs.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 315 - Senator Gillan moved consideration of **HB 315** be placed below **HB 615** on the second reading board. Without objection, so ordered.

Senator Erickson present at this time.

Senator Hamlett present at this time.

Senator Branae present at this time.

HB 598 - Senator Steinbeisser moved **HB 598** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Branae, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Squires.

Total 1

Absent or not voting: None.

Total 0

Excused: Black, T. Brown, Tutvedt.

Total 3

Senator T. Brown present at this time.

Senator Tutvedt present at this time.

Senator Black present at this time.

HB 615 - Senator Brueggeman moved **HB 615** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann,

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 41

Nays: Balyeat, Brenden, R. Brown, Hinkle, Jackson, Juneau, Shockley, Stewart-Peregoy, Windy Boy.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Wanzenried excused at this time.

Senator Zinke excused at this time.

HB 315 - Senator Gillan moved **HB 315** be concurred in. Motion carried as follows:

Yeas: Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy.

Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: Wanzenried, Zinke.

Total 2

Senator Zinke present at this time.

HB 636 - Senator Gillan moved **HB 636** be concurred in.

HB 636 - Senator Essmann moved **HB 636**, second reading copy, be amended as follows:

1. Page 2, line 4 through line 5.

Strike: subsection (5) in its entirety

Insert: "(5) Property subject to an income or corporate tax exclusion under this section is not eligible for a property tax exemption under Title 15, chapter 6, part 2, while the property is used as a mobile home park."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 636 - Senator Gillan moved **HB 636**, as amended, be concurred in. Motion carried as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Williams, Windy Boy.

Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 23

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

HB 662 - Senator Murphy moved **HB 662** be concurred in. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Williams.

Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: Wanzenried.

Total 1

Senator Esp excused at this time.

Senator Erickson excused at this time.

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

HB 662 - Senator J. Peterson moved **HB 662** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, Keane, Laible, Laslovich, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 28

Nays: Branae, Cooney, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, M. Tropila, Williams.
Total 19

Absent or not voting: None.
Total 0

Excused: Erickson, Esp, Wanzenried.
Total 3

HB 669 - Senator Gebhardt moved **HB 669** be concurred in.

HB 669 - Senator Gebhardt moved **HB 669**, second reading copy, be amended as follows:

1. Page 1, line 27.

Strike: "30%"

Insert: "36%"

2. Page 1, line 30.

Following: " _ "

Insert: "State matching funds must be deposited in a special revenue account called the distressed wood products matching fund."

3. Page 3, line 26.

Following: "account"

Insert: ", the distressed wood products matching fund,"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Hinkle.
Total 1

Absent or not voting: None.
Total 0

Excused: Erickson, Esp, Wanzenried.
Total 3

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

HB 669 - Senator Gebhardt moved **HB 669**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Essmann, Hinkle, Kaufmann, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Erickson, Esp, Wanzenried.

Total 3

Senator Wanzenried present at this time.

Senator Erickson present at this time.

HB 674 - Senator Gebhardt moved **HB 674** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 34

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Laible, Lewis, Peterson, Tutvedt, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Peterson moved to appoint a Conference Committee on **HB 531**. Motion carried. President Story appointed Senator Brueggeman (Chair), Senator Hinkle, and Senator Windy Boy.

Senator Peterson moved the Senate recess until 1:00 p.m. Motion carried.

Senate in recess.

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Senate reconvened at 1:00 p.m.

Roll Call: All members present, except Senators Gallus, Gillan, and Schmidt, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

JUDICIARY (Perry, Chairman): 4/15/2009
HJR 31, be concurred in. Report adopted.

TAXATION (Essmann, Chairman): 4/15/2009
HB 658, be amended as follows:

1. Title, page 1, line 9.

Strike: "CLASS THREE AND"

2. Title, page 1, line 17 through line 19.

Strike: "REVISING" on line 17 through "VETERANS;" on line 19

Insert: "CHANGING THE WAY THE VALUE OF CERTAIN NEWLY CONSTRUCTED PROPERTY IS DETERMINED FOR LOCAL GOVERNMENT MILL LEVY AUTHORITY; EXEMPTING FROM TAXATION LAND THAT IS DEDICATED EXCLUSIVELY TO PARK OR ROADWAY PURPOSES UNDER LAWS REGULATING SUBDIVISIONS; "

3. Title, page 1, line 20 through line 21.

Strike: "SPRING" on line 20 through "LAND" on line 21

Insert: "ALFALFA HAY ADJUSTED TO 80 PERCENT OF THE SALES PRICE"

4. Title, page 1, line 22 through line 24.

Strike: "INCREASING" on line 22 through "ELDERLY;" on line 24

5. Title, page 1, line 26.

Following: "COMMITTEE;"

Insert: "REQUIRING NOTICE OF PROPERTY TAX ASSISTANCE PROGRAMS ON CLASSIFICATION AND APPRAISAL NOTICES AND PROPERTY TAX BILLS; EXTENDING APPLICATION DEADLINES FOR THE LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM AND THE DISABLED OR DECEASED VETERANS' RESIDENCE PROPERTY TAX EXEMPTION PROGRAM; CHANGING THE REPORTING REQUIREMENTS RELATING TO TAX INCREMENT FINANCING; REQUESTING THAT THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE REVIEW PROPERTY TAX ASSISTANCE TO TAXPAYERS;"

6. Title, page 1, line 27.

Following: "~~15-6-133~~;"

Insert: "7-15-4285,"

Strike: "15-6-193, 15-6-211,"

7. Title, page 1, line 28.

Following: line 27

Insert: "15-7-102,"

Strike: "15-30-171, 15-30-172, 15-30-176,"

Insert: "15-10-420, 15-16-101,"

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

8. Page 2, line 6.

Insert: "**Section 1.** Section 7-15-4285, MCA, is amended to read:

"7-15-4285. Determination and report of original, actual, and incremental taxable values. The department of revenue shall, ~~immediately~~ upon receipt of ~~the~~ a qualified tax increment provision and each succeeding year, calculate and report to the municipality and to any other affected taxing body in accordance with Title 15, chapter 10, part 2, the base, actual, and incremental taxable values of the property.""

Renumber: subsequent sections

9. Page 2, line 14.

Strike: "\$119,000"

Insert: "\$100,000"

10. Page 3, line 7.

Strike: "2.85%"

Insert: "2.93%"

11. Page 3, line 8.

Strike: "2.7%"

Insert: "2.82%"

12. Page 3, line 9.

Strike: "2.57%"

Insert: "2.72%"

13. Page 3, line 10.

Strike: "2.45%"

Insert: "2.63%"

14. Page 3, line 11.

Strike: "2.35%"

Insert: "2.54%"

15. Page 3, line 12.

Strike: "2.25%"

Insert: "2.47%"

16. Page 3, line 19.

Strike: "\$10,000"

Insert: "\$6,000"

Strike: "\$13,000"

Insert: "\$8,000"

17. Page 3, line 20.

Strike: "\$10,001"

Insert: "\$6,001"

Strike: "\$14,000"

Insert: "\$9,200"

Strike: "\$13,001"

Insert: "\$8,001"

Strike: "\$19,000"

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Insert: "\$14,000"

18. Page 3, line 21.

Strike: "\$14,001"

Insert: "\$9,201"

Strike: "\$19,000"

Insert: "\$15,000"

Strike: "\$19,001"

Insert: "\$14,001"

Strike: "\$25,000"

Insert: "\$20,000"

19. Page 3, line 24.

Strike: "amounts in subsection (1)(c) and"

Insert: "amount"

20. Page 4, line 2 through line 4.

Strike: subsection (3) in its entirety

Renumber: subsequent subsection

21. Page 4, line 15.

Strike: "0.32%"

Insert: "0.34%"

22. Page 4, line 16.

Strike: "0.3%"

Insert: "0.33%"

23. Page 4, line 17.

Strike: "0.28%"

Insert: "0.32%"

24. Page 4, line 18.

Strike: "0.26%"

Insert: "0.31%"

25. Page 4, line 19.

Strike: "0.24%"

Insert: "0.3%"

26. Page 4, line 20.

Strike: "0.23%"

Insert: "0.29%"

27. Page 4, line 22 through page 8, line 28.

Strike: sections 3 and 4 in their entirety

Renumber: subsequent sections

28. Page 9, line 1.

Following: "(1)"

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Insert: "(a)"
Strike: "The"
Insert: "Except as provided in subsection (1)(b), the"

29. Page 9, line 4.
Strike: "(a)"
Insert: "(i)"
Renumber: subsequent subsections
Strike: "35.9%"
Insert: "36.8%"

30. Page 9, line 5.
Strike: "37.4%"
Insert: "39.5%"

31. Page 9, line 6.
Strike: "38.7%"
Insert: "41.8%"

32. Page 9, line 7.
Strike: "39.9%"
Insert: "44%"

33. Page 9, line 8.
Strike: "41.1%"
Insert: "45.5%"

34. Page 9, line 9.
Strike: "42%"
Insert: "47%"

35. Page 9.
Following: line 9
Insert: "(b) For single-family residential dwellings, the exemption provided under subsection (1)(a) is applied to the first \$1.5 million or less in market value."

36. Page 9, line 12.
Strike: "15.3%"
Insert: "14.2%"

37. Page 9, line 13.
Strike: "15.5%"
Insert: "15.9%"

38. Page 9, line 14.
Strike: "15.7%"
Insert: "17.5%"

39. Page 9, line 15.
Strike: "15.9%"

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Insert: "19%"

40. Page 9, line 16.

Strike: "16.4%"

Insert: "20.3%"

41. Page 9, line 17.

Strike: "16.6%"

Insert: "21.5%"

42. Page 9, line 18.

Insert: "NEW SECTION. Section 5. Dedicated roads and parks. Land dedicated exclusively to park purposes or for roadways pursuant to Title 76, chapter 3, is exempt from property taxation."

"Section 6. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners -- appeals. (1) (a) Except as provided in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) except as provided in subsection (1)(b), change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an incremental change in the tax rate.

(c) The notice must include the following for the taxpayer's informational purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential property tax credit for the elderly under 15-30-171 through 15-30-179;

~~(i)~~(ii) the total amount of mills levied against the property in the prior year; and

~~(ii)~~(iii) a statement that the notice is not a tax bill.

(d) Any misinformation provided in the information required by subsection (1)(c) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail the notice of classification and appraisal to a new owner or purchaser under contract for deed unless the department has received the transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department, on forms provided by the department for that purpose, within 30 days after receiving the notice of classification and appraisal from the department. The review must be conducted informally and is not subject to the contested case procedures of the

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

- (a) the taxpayer has submitted an objection in writing; and
- (b) the department has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 30 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Renumber: subsequent sections

43. Page 11, line 22.

Strike: "spring wheat from summer fallow farm land"

Insert: "alfalfa hay adjusted to 80% of the sales price"

44. Page 12, line 17.

Insert: "**Section 9.** Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

- (i) annexation of real property and improvements into a taxing unit;
 - (ii) construction, expansion, or remodeling of improvements;
 - (iii) transfer of property into a taxing unit;
 - (iv) subdivision of real property; and
 - (v) transfer of property from tax-exempt to taxable status.
- (b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.
- (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:
- (i) a change in the boundary of a tax increment financing district;
 - (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
 - (iii) the termination of a tax increment financing district.
- (b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.
- (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.
- ~~(c)~~(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property or as nonqualified agricultural land as described in 15-6-133(1)(c).
- (5) Subject to subsection (8), subsection (1)(a) does not apply to:
- (a) school district levies established in Title 20; or
 - (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.
- (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.
- (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.
- (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole tenths of mills. If the mill levy calculation does not result in ~~a whole number~~ an even tenth of mills a mill, then the calculation must be rounded up to the nearest whole tenth of a mill.
- (9) (a) The provisions of subsection (1) do not prevent or restrict:
- (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
 - (ii) a levy to repay taxes paid under protest as provided in 15-1-402;
 - (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; or
 - (iv) a levy for the support of a study commission under 7-3-184.
- (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.
- (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.
- (11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit."

"Section 10. Section 15-16-101, MCA, is amended to read:

"15-16-101. Treasurer to publish notice -- manner of publication. (1) Within 10 days after the receipt

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

(i) the taxable value of the property;

(ii) the total mill levy applied to that taxable value;

(iii) itemized city services and special improvement district assessments collected by the county;

(iv) the number of the school district in which the property is located; ~~and~~

(v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax; ~~and~~

(iv) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential property tax credit for the elderly under 15-30-171 through 15-30-179.

(b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete information.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iii) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared."

Renumber: subsequent sections

45. Page 12, line 18 through page 15, line 20.

Strike: sections 8 through 10 in their entirety

Renumber: subsequent sections

46. Page 16, line 28.

Strike: "annual"

47. Page 16, line 29 through line 30.

Strike: "interest" on line 29 through "Washington" on line 30

Insert: "capitalization rate determined by the department after consultation with the forest lands taxation advisory committee"

Following: "rate."

Insert: "The capitalization rate must be adopted by rule."

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

48. Page 17, line 1.

Following: "period"

Insert: "for tax years 2009 through 2014"

49. Page 17, line 14.

Strike: "December 31 of each even-numbered year"

Insert: "June 30 of the first year of each reappraisal cycle"

50. Page 17, line 25.

"NEW SECTION. Section 12. Extension of 2009 deadlines relating to property taxation. As a result of the changes in the mitigation strategy of reappraisal for class three, four, and ten property enacted by the 61st legislature, it may not be possible to comply with certain statutory deadlines relating to appraisals, assessments, reimbursements, budgets, and collection of property taxes. The state appraisal and assessment process may be delayed, which in turn may cause delays for the tax appeal boards and local government taxing jurisdiction budgeting and collection processes. Therefore, for tax year 2009, all deadlines are extended as necessary and reasonable, except that the time limits allowed for filing an appeal remain the same as provided by law in order to allow for the orderly and efficient assessment and collection of taxes.

Insert: "NEW SECTION. Section 13. Application deadline extensions. Because [this act] changes eligibility criteria for the property tax assistance program in 15-6-134(1)(c) and the exemption rate formulas for the disabled or deceased veterans' residence property tax exemption program under 15-6-211 and the application deadlines for those programs will have passed by [the effective date of this act], the application deadlines for those programs have been extended for tax year 2009 to July 15, 2009."

"NEW SECTION. Section 14. Revenue and transportation interim committee review of property tax assistance. The revenue and transportation interim committee is requested, under the committee's oversight duties, as provided in 5-5-227, to review methods of providing assistance to property taxpayers, including circuit breaker programs and assistance to low-income, veteran, and elderly property owners and whether the assistance should be accomplished through income tax or property taxation means.

Insert: "NEW SECTION. Section 15. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 5]."

Insert: "NEW SECTION. Section 16. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 457**
Report No. 1, April 15, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 457** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 457** (reference copy -- salmon) be amended as follows:

1. Page 2, line 18.

Following: "~~AND~~"

Insert: "and"

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

2. Page 2, line 19.

Strike: " ; "

Insert: " . "

3. Page 2, line 20.

Strike: subsection (9) in its entirety

For the Senate:

Branae, Chairman

Black

Esp

For the House:

MacDonald, Vice Chairman

Berry

Ebinger

Vance

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Senator Gillan present at this time.

Senator Gallus present at this time.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 678 - Senator Gebhardt moved **HB 678** be concurred in.

HB 678 - Senator Kaufmann moved **HB 678**, second reading copy, be amended as follows:

1. Page 5, line 20.

Strike: "5"

Insert: "10"

2. Page 7, line 4.

Strike: "(A)" through "THE"

Insert: "The"

3. Page 7, line 9.

Following: "[SECTION 8]"

Insert: "or that the application requires an extended review pursuant to [section 8]"

4. Page 7, line 10 through line 13.

Strike: subsection (B) in its entirety

5. Page 7, line 23.

Strike: "OR" through "GREATER,"

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

6. Page 8, line 27.

Following: ":"

Insert: ":"

7. Page 8, line 30.

Following: "(b)"

Insert: "(a) the department determines that substantial issues are not adequately satisfied in the proposed plan of operation; or
(b)"

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 20

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 678 - Senator Perry moved **HB 678**, second reading copy, be amended as follows:

1. Page 3, line 29.

Strike: "or"

2. Page 3, line 30 through page 4, line 1.

Strike: "except" on page 3, line 30 through "bentonite" on page 4, line 1

Insert: "and is subject to the fee provided for in 82-4-437(2); or
(4) a county, city, or town that holds a permit pursuant to Title 82, chapter 4, part 4"

3. Page 4, line 4.

Strike: "The"

Insert: "(1) Except as provided in subsection (2), the"

Following: "~~fees or~~"

Insert: "fees or"

4. Page 4.

Following: line 5

Insert: "(2) Counties, cities, and towns are responsible for the fee required pursuant to 82-4-437(2)."

5. Page 9, line 29 through page 10, line 5.

Strike: sections 11 and 12 in their entirety

Renumber: subsequent sections

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

6. Page 10, line 9.

Following: "(1)"

Strike: "[Sections]"

Insert: "Except as provided in subsection (4), [sections]"

7. Page 10.

Following: line 14

Insert: "(4) The exemption provided for in 15-38-113(4) applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2000, for counties, cities, and towns."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Brenden, Murphy.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 678 - Senator Gebhardt moved **HB 678**, second reading copy, be amended as follows:

1. Page 7, line 6.

Strike: the first "THE" through "PERIOD."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Mr. President.

Total 32

Nays: Branae, Cooney, Erickson, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams, Zinke.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 678 - Senator Gebhardt moved **HB 678**, as amended, be concurred in. Motion carried as follows:

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 39

Nays: Branae, Brenden, Cooney, Erickson, Hawks, Juneau, Kaufmann, Larsen, Moss, Wanzenried, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 33 - Senator Perry moved **SJR 33** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 34 - Senator Juneau moved **SJR 34** do pass. Motion **failed** as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Senator McGee assumed the chair.

SJR 35 - Senator Schmidt moved **SJR 35** do pass.

SJR 35 - Senator R. Brown moved **SJR 35**, second reading copy, be amended as follows:

1. Page 1, following line 13.

Insert: "WHEREAS, the costs of medical care make it more difficult for American companies to compete in the world and the cost of health care makes it harder for small businesses to survive; and
WHEREAS, families are struggling to keep up with out-of-pocket costs for health care; and"

2. Page 2, following line 19.

Insert: "BE IT FURTHER RESOLVED, that the study work with the public and relevant stakeholders to make serious recommendations on ways to reduce the costs of health care."

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator R. Brown re-assumed the chair.

SJR 35 - Senator Schmidt moved **SJR 35**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Mr. President.

Total 39

Nays: Balyeat, Barkus, Brenden, Esp, Gallus, Jackson, Laible, McGee, Ripley, Windy Boy, Zinke.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

SJR 36 - Senator Gebhardt moved **SJR 36** do pass. Motion carried as follows:

Yeas: Bales, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 34

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Gallus, Hinkle, Jackson, Laible, McGee, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 37 - Senator Essmann moved **SJR 37** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Esp, Gallus, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 38 - Senator Stewart-Peregoy moved **SJR 38** do pass. Motion carried as follows:

Yeas: Balyeat, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 34

Nays: Bales, Barkus, Barrett, Brenden, Esp, Gallus, Gillan, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.
Total 16

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

SJR 39 - Senator Brueggeman moved **SJR 39** do pass. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Bales, Erickson, Esp, Gallus, Laible, McGee.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 34 - Senator J. Peterson moved **SJR 34** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Zinke, Mr. President.
Total 28

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 5, as amended by the Senate, concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Nays: Balyeat, Hinkle, Juneau, Moss, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 10, as amended by the Senate, concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 36

Nays: Balyeat, Barkus, Brenden, R. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Juneau, McGee, Shockley, Tutvedt, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 11 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Hinkle, Juneau.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 128 concurred in as follows:

Yeas: Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 40

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Nays: Bales, Balyeat, Brenden, R. Brown, Hinkle, Jackson, McGee, Shockley, Tutvedt, Mr. President.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 152, as amended by the Senate, concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 224 concurred in as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 36

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, Curtiss, Hinkle, Jackson, Laible, McGee, Ripley, Steinbeisser, Zinke, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 258 concurred in as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 36

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Nays: Bales, Balyeat, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, Lewis, McGee, Murphy, Perry, Ripley, Shockley.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 331, as amended by the Senate, concurred in as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Windy Boy.

Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Gallus, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Shockley, Steinbeisser, M. Tropila, Tutvedt, Zinke, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 459, as amended by the Senate, concurred in as follows:

Yeas: Barrett, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 33

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Peterson, Shockley, Mr. President.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 464 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Nays: Balyeat, Erickson, Essmann, Hinkle, McGee.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 578 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 629 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Black, Cooney, Erickson, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, M. Tropila, Wanzenried, Williams.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 645, as amended by the Senate, concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 27

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Nays: Balyeat, Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 659 concurred in as follows:

Yeas: Balyeat, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Bales, Barkus, Brenden, R. Brown, Essmann, Laible, McGee, Murphy, Peterson, Steinbeisser, J. Tropila, Tutvedt.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 676, as amended by the Senate, concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 30

Nays: Balyeat, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, M. Tropila, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Barkus moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Resolution No. 25**, and that the ayes and nays be spread upon the journal.

Joseph Maurier, Helena, Director, Department of Fish, Wildlife and Parks

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Hinkle, Murphy.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Esp excused at this time.

Senator Steinbeisser moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Resolution No. 29**, and that the ayes and nays be spread upon the journal.

Ron De Yong, Helena, Director, Department of Agriculture

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Black moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Resolution No. 30**, and that the ayes and nays be spread upon the journal.

Rhonda Whiting, Missoula, member of the Pacific Northwest Power and Conservation Planning Council

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Esp.
Total 1

Senator Esp present at this time.

Senator Black moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with **Resolution No. 31**, and that the ayes and nays be spread upon the journal.

Bruce Measure, Helena, member of the Pacific Northwest Power and Conservation Planning Council

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Shockley moved to change his vote on **HB 11**, Third Reading, from no to yes. Without objection, so ordered.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 262 - Senator Erickson moved **HB 262** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 26

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 312 - Senator Hamlett moved **HB 312** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Balyeat, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Hansen, Hinkle, Jackson, McGee, Murphy, Shockley, M. Tropila.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 575 - Senator Keane moved **HB 575** be concurred in.

HB 575 - Senator Stewart-Peregoy moved **HB 575**, second reading copy, be amended as follows:

1. Page 7, line 19.

Following: "2"

Strike: ", "

Insert: ": (i) the board shall certify that the withdrawal from the ground of water associated with coal bed methane production does not adversely affect senior water rights; and
(ii)"

2. Page 7, line 22.

Strike: "(i)"

Insert: "(A)"

3. Page 7, line 23.

Strike: "(ii)"

Insert: "(B)"

Amendment **not** adopted as follows:

Yeas: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Laslovich,

SENATE JOURNAL
EIGHTIETH LEGISLATIVE DAY - APRIL 15, 2009

Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 22

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hansen, Hinkle, Jackson, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 28

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 575 - Senator Keane moved **HB 575** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 30

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 10:00 a.m., Thursday, April 16, 2009. Motion carried.

Senate adjourned at 3:34 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 16, 2009

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan, Juneau, Schmidt, and Williams, excused. Quorum present.

Senator Juneau present at this time.

BILLS AND JOURNALS:

4/16/2009

Correctly printed: **SJR 33, SJR 36, SJR 37, SJR 38, SJR 39, HJR 31, HB 262, HB 312, HB 315, HB 575, HB 598, HB 615, HB 674.**

Correctly engrossed: **SJR 35, HB 636, HB 658, HB 669, HB 678.**

Correctly enrolled: **SR 25, SR 29, SR 30, SR 31, SB 257, SB 356, SB 464.**

Examined by the sponsor and found to be correct: **SB 356, SB 464, SR 25, SR 29, SR 30, SR 31.**

REPORTS OF STANDING COMMITTEES

STATE ADMINISTRATION (Shockley, Chairman):

4/15/2009

SR 33, be adopted. Report adopted.

SR 34, be adopted. Report adopted, as amended.

SR 35, be adopted. Report adopted.

SR 37, be adopted. Preliminary report adopted.

HJR 35, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

4/15/2009

SR 38, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/15/2009

HB 123, introduced by Jones

HB 670, introduced by Vincent

Senate bills concurred in and returned to the Senate:

4/15/2009

SB 257, introduced by Keane

SB 356, introduced by Zinke

SB 464, introduced by Laslovich

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/15/2009

SB 260, introduced by Gillan

SB 263, introduced by Shockley

SB 418, introduced by Branae

SB 460, introduced by Story

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

SB 465, introduced by Hamlett
SB 467, introduced by Balyeat
SB 489, introduced by Essmann
SB 491, introduced by Lewis
SB 507, introduced by Story
SB 508, introduced by Brueggeman

Senate bill not concurred in and returned to the Senate: 4/15/2009

SB 370, introduced by Perry

Conference Committee Report No.1 adopted: 4/15/2009

SB 305, introduced by Tutvedt
SB 404, introduced by Brueggeman

MOTIONS

Senator Gillan present at this time.

Senator J. Tropila moved to reconsider action to adopt the Committee of the Whole report the 80th Legislative day.

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Hinkle, Laslovich, McGee, Peterson, Ripley, Shockley, Zinke, Mr. President.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator J. Tropila moved to reconsider the action to indefinitely postpone **HB 662**.

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Hinkle, Laslovich, McGee, Peterson, Ripley, Shockley, Tutvedt, Mr. President.
Total 18

Absent or not voting: None.
Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Excused: None.
Total 0

Senator J. Tropila moved to reconsider action on **HB 662** on second reading on the 80th Legislative day.

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Essmann, Gallus, Hinkle, McGee, Peterson, Ripley, Shockley, Tutvedt, Zinke, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator J. Tropila moved **HB 662** be placed on second reading this day. Motion carried.

Senator Peterson moved to adopt the Committee of the Whole Report for the 80th Legislative day. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 655 - Senator Hamlett moved **HB 655** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 44

Nays: Balyeat, Barrett, Esp, Hinkle, Peterson, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 656 - Senator J. Tropila moved **HB 656** be concurred in. Motion carried as follows:

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 45

Nays: Curtiss, Hinkle, Jackson, McGee, Windy Boy.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 657 - Senator Black moved **HB 657** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Jackson.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 119 - House Amendments - Senator Esp moved House amendments to **SB 119** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

SB 131 - Senator J. Peterson moved consideration of **SB 131** be placed at the bottom of the second reading board. Motion carried.

SB 176 - House Amendments - Senator Perry moved House amendments to **SB 176** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 271 - Senator J. Peterson moved consideration of **SB 271** be placed at the bottom of the second reading board. Motion carried.

SB 369 - House Amendments - Senator Esp moved House amendments to **SB 369** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Squires excused at this time.

Senator Curtiss excused at this time.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

SB 403 - House Amendments - Senator Gebhardt moved House amendments to **SB 403** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 30

Nays: Balyeat, Branae, Brueggeman, Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 18

Absent or not voting: None.
Total 0

Excused: Curtiss, Squires.
Total 2

Senator Curtiss present at this time.
Senator Squires present at this time.

HB 55 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **HB 55** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Esp excused at this time.

HB 418 - House Amendments - Senator Zinke moved House amendments to **HB 418** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Nays: Brueggeman, Hawks, Juneau, Laslovich, Perry.
Total 5

Absent or not voting: None.
Total 0

Excused: Esp.
Total 1

Senator Esp present at this time.

SB 48 - Conference Committee Report No. 1 - Senator Essmann moved the Conference Committee report to **SB 48** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 305 - Conference Committee Report No. 1 - Senator Tutvedt moved the Conference Committee report to **SB 305** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 310 - Conference Committee Report No. 1 - Senator Shockley moved the Conference Committee report to **SB 310** be adopted. Motion carried as follows:

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 404 - Conference Committee Report No. 1 - Senator Brueggeman moved the Conference Committee report to **SB 404** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 427 - Free Conference Committee Report No. 1 - Senator Laslovich moved the Free Conference Committee report to **SB 427** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Excused: None.
Total 0

SB 131 - House Amendments - Senator Williams moved House amendments to **SB 131** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 31

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Essmann, Hinkle, Jackson, McGee, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 271 - House Amendments - Senator Squires moved House amendments to **SB 271** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Ripley, Shockley, Tutvedt.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 262 concurred in as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau,

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 312 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 34

Nays: Balyeat, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Hansen, Hinkle, Jackson, Larsen, McGee, Murphy, Shockley, M. Tropila, Windy Boy.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 315 concurred in as follows:

Yeas: Barrett, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 31

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Laible, McGee, Murphy, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

HB 575 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 30

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 598 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Hinkle.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 615 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 42

Nays: Balyeat, Brenden, R. Brown, Hinkle, Juneau, Shockley, Stewart-Peregoy, Windy Boy.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

HB 674 received the following vote (two-thirds vote required):

Yeas: Branae, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Hinkle, Jackson, Lewis, McGee, Peterson, Ripley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **HB 674** will **not** progress since it did not receive the required two-thirds vote.

SJR 33 passed as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Barkus, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 36 passed as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Hinkle, Laible, McGee, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 15

Absent or not voting: None.
Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Excused: None.
Total 0

SJR 37 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Esp, McGee, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 38 passed as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Esp, Gallus, Gebhardt, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 39 passed as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Bales, Balyeat, Erickson, Esp, Laible, McGee, Shockley, Windy Boy.
Total 8

Absent or not voting: None.
Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Excused: None.
Total 0

MOTIONS

Senator Black moved to change his vote on **SB 131** from yes to no. Without objection, so ordered.

Senator Peterson moved that the Senate recess until 1:00 p.m. Motion carried.

Senate in recess.

Senate reconvened.

Roll Call: All members present, except Senators Juneau, Schmidt, Keane, Perry, excused. Quorum present.

MOTIONS

Senator Peterson moved the Senate recess until 1:20 p.m. for the purpose of caucuses. Motion carried.

Senate in recess.

Roll Call: All members present, except Senators Jackson, Laslovich, and Schmidt, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/16/2009

HB 97, be concurred in. Report adopted.

HB 130, be amended as follows:

1. Title, line 5.

Following: "MATCHING"

Insert: "MATCHING"

2. Page 2, line 7.

Following: "~~matching fund~~"

Insert: "matching fund"

3. Page 2.

Following: line 10

Insert: "matching"

4. Page 2, line 20.

Following: "STATE."

Insert: "The department shall develop a sliding scale for state grants based upon the historical county use of the state hospital with a high-use county receiving a lower percentage of matching funds. The sliding scale must be based upon the number of commitments by county compared to total commitments and upon the population of each county compared to the state population."

5. Page 2, line 21.

Following: "matching"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Insert: "matching"

And, as amended, be concurred in. Report adopted.

HB 131, be amended as follows:

1. Page 3, line 15.

Strike: "SEPTEMBER 1, 2009"

Insert: "July 1, 2010"

2. Page 3, line 16.

Strike: "2010"

Insert: "2011"

And, as amended, be concurred in. Report adopted.

HB 135, be concurred in. Report adopted.

HB 154, be concurred in. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Schmidt present at this time.

Senator Laslovich present at this time.

Senator Jackson present at this time.

HB 658 - Senator Essmann moved **HB 658** be concurred in.

HB 658 - Senator Essmann moved **HB 658**, second reading copy, be amended as follows:

1. Title, page 1, line 7 through line 8.

Strike: "INCREASING" on line 7 through "PROGRAM;" on line 8

2. Page 24, line 19.

Following: "BOARDS"

Insert: ", school districts,"

3. Page 24, line 24 through line 25.

Strike: "[THIS ACT] CHANGES ELIGIBILITY CRITERIA FOR" on lines 24 and 25

Insert: "the application deadlines for"

Strike: "THE EXEMPTION RATE FORMULAS FOR" on line 25

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

4. Page 24, line 26 through line 27.

Strike: "AND THE" on line 26 through "APPLICATION DEADLINES FOR THOSE PROGRAMS"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 658 - Senator Essmann moved **HB 658**, second reading copy, be amended as follows:

1. Page 14, line 8.

Strike: "\$40"

Insert: "\$50"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 658 - Senator Kaufmann moved **HB 658**, second reading copy, be amended as follows:

1. Title, page 1, line 6.

Following: "REAPPRAISAL;"

Insert: "ESTABLISHING THE MONTANA PROPERTY TAX REDUCTION ACT; PROVIDING DEFINITIONS;
ESTABLISHING A REFUNDABLE INCOME TAX CREDIT FOR A PORTION OF PROPERTY TAXES

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

PAID; ESTABLISHING A METHOD FOR CALCULATING THE CREDIT; GRANTING THE DEPARTMENT OF REVENUE AUTHORITY TO DENY CERTAIN CLAIMS; ESTABLISHING A PENALTY FOR FALSE OR FRAUDULENT CLAIMS; GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY; ELIMINATING THE EXTENDED PROPERTY TAX ASSISTANCE PROGRAM;"

2. Title, page 1, line 7 through line 8.

Strike: "INCREASING" on line 7 through "PROGRAM;" on line 8

3. Title, page 1, line 30.

Following: "OF"

Insert: "THE"

4. Title, page 2, line 1.

Strike: "ASSISTANCE PROGRAMS"

Insert: "REDUCTION ACT"

5. Title, page 2, line 2 through line 3.

Strike: "THE" on line 2 through "AND" on line 3

6. Title, page 2, line 7.

Following: line 6

Insert: "2-15-122, 5-2-301,"

7. Title, page 2, line 8.

Strike: "AND"

Insert: "15-16-102,"

Following: "15-44-103,"

Insert: "47-1-111, 53-4-1103, AND 53-6-1001,"

8. Title, page 2, line 10.

Following: "MCA,"

Insert: "REPEALING SECTIONS 15-6-191, 15-6-193, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, AND 15-30-179, MCA;"

9. Page 2, line 16.

Insert: "NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Montana Property Tax Reduction Act"."

Insert: "NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 8] is to provide property tax reductions in the form of a refundable income tax credit to certain persons who own or rent a qualified residence."

Insert: "NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 8], the following definitions apply:

(1) "Claimant" means a person who files a claim for property tax reductions as authorized by [sections 1 through 8] and who was a resident of this state for at least 7 months during the calendar year for which the claim was filed. A claimant must have resided, as either an owner or renter, in a qualified residence for at least 7 months during the calendar year for which a claim is filed.

(2) "Deceased veteran" means a person who was killed while on active duty or dies as a result of a service-connected disability.

(3) "Disabled veteran" means a person who:

(a) was honorably discharged from active service in any branch of the armed services; and

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

(b) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-related disability, as verified by official documentation from the U.S. department of veterans affairs.

(4) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of a qualified residence pursuant to an arm's-length transaction with a property owner or the owner's agent.

(5) "Household" means all individuals residing in a qualified residence who cannot be claimed on another individual's income tax return as a dependent.

(6) "Household income" means the total income of a household as reported on the tax return or returns required by this chapter for the year in which the credit is being claimed excluding losses and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under this chapter, household income means the total household income as it would have been reported had the claimant been required to file a return.

(7) "Property taxes" means taxes billed against a qualified residence, including special assessments and fees but excluding penalties and interest during the claim period. Property taxes do not include special assessments or voted mill levies billed after December 31, 2011.

(8) "Qualified residence" means any class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling. A qualified residence must be occupied by a claimant for at least 7 months during the year for which a claim is made.

(9) "Rent constituting property taxes" means 15% of the gross rent actually paid by a claimant for the right of occupancy of a qualified residence for which the claimant has submitted a claim.

(10) "Surviving spouse of a deceased veteran" means, if the surviving spouse has not remarried, an individual who was married to a veteran who, during the course of the marriage:

(a) was killed while on active duty; or

(b) died as a result of a service-connected disability."

Insert: "NEW SECTION. Section 4. Income tax credit for property taxes paid. (1) There is a credit against the taxes imposed by this chapter for a portion of the property taxes paid by a claimant as provided by [sections 1 through 8].

(2) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant.

(3) A claimant required to file a tax return under this chapter shall submit a claim for the credit with the claimant's tax return.

(4) A claimant not required to file a tax return under this chapter may submit a claim for the credit.

(5) Claims for the credit must be made on a form prescribed by the department and must be filed no later than April 15 of the year following the year for which credit is sought.

(6) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(7) In the event that an individual who would have a claim under [sections 1 through 8] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(8) The department or an individual may revise a return and an individual may make a claim under [sections 1 through 8] within 5 years from the last day prescribed for filing a claim for reduction.

(9) Only one claim may be made with respect to any qualified residence."

Insert: "NEW SECTION. Section 5. Calculation of credit. (1) The credit provided for in [section 4] is calculated based on a claimant's income as set out in column A of the table in subsection (6).

(2) A claimant who owned and occupied a qualified residence may claim a credit for property taxes billed to the extent that the property taxes billed exceed the claimant's household income as set out in column B of the table in subsection (6).

(3) A claimant who rented or leased a qualified residence may claim a credit for rent constituting property taxes to the extent that the rent constituting property taxes paid exceeds the claimant's household income as set out in column B of the table in subsection (6).

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

(4) A claimant who turns 62 years of age or older during the year for which a claim is made may claim a credit for property taxes billed or rent constituting property taxes paid to the extent that the property taxes billed or rent constituting property taxes paid exceeds the claimant's household income as set out in column C of the table in subsection (6).

(5) A claimant who is a disabled veteran or the surviving spouse of a deceased veteran may claim a credit for property taxes billed or rent constituting property taxes paid to the extent that the property taxes billed or rent constituting property taxes paid exceeds the claimant's household income as set out in column D of the table in subsection (6).

(6) The following table must be used to calculate the credit provided for in [section 4]:

Column A Income	Column B Standard	Column C Senior	Column D Veteran
\$0 - \$10,500	2.5%	0%	0%
\$10,501 - \$26,000	3%	2%	0%
\$26,001 - \$39,000	3%	3%	0%
\$39,001 - \$45,000	3.5%	3.5%	1%
\$45,001 - \$60,000	3.5%	3.5%	3.5%

(7) A claimant who qualifies for a tax credit under more than one subsection of this section may claim the credit that provides the claimant with the greatest benefit.

(8) (a) Unless a claimant is a disabled veteran or the surviving spouse of a deceased veteran entitled to a credit under subsection (5), the maximum credit authorized by this section is \$1,500.

(b) The maximum credit authorized for a claimant entitled to a credit under subsection (5) is \$2,000.

(9) By November 1 of each year, the department shall multiply the column A income bracket amounts contained in subsection (6) by the inflation factor for that tax year, but using the consumer price index for June 2009, and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that tax year and must be used as the basis for the determination of the tax credit authorized by this section."

Insert: "NEW SECTION. Section 6. Denial of claims. The department may deny claims if the department determines the claims or the claimants do not qualify pursuant to the terms of [sections 1 through 8] or if the department determines that a false or fraudulent claim has been filed."

Insert: "NEW SECTION. Section 7. False or fraudulent claims. A claimant who submits a false or fraudulent claim is guilty of false swearing under 45-7-202. In addition to the penalties available under 45-7-202, any claim granted as the result of a false or fraudulent claim may be recaptured by the department."

Insert: "NEW SECTION. Section 8. Rulemaking authority. The department may adopt rules necessary to implement, administer, and enforce [sections 1 through 8]."

Insert: "Section 9. Section 2-15-122, MCA, is amended to read:

"2-15-122. Creation of advisory councils. (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating authority shall file a record of each council created by it in the office of the governor and the office of the secretary of state in accordance with subsection (9).

(2) Each advisory council created under this section must be known as the ".... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the creating authority; and

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined in 2-15-102.

(5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for inflation annually using the formula provided in ~~15-6-134(2)(b)(ii) and (2)(b)(iii)~~, except that the base income level and appropriate dollar amount must be \$50 a day subsection (11).

(b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.

(7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

(a) the council's name, in accordance with subsection (2);

(b) the council's composition;

(c) the appointed members, including names and addresses;

(d) the council's purpose; and

(e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

(11) (a) The income levels contained in subsection (5) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying \$50 by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

Insert: "Section 10. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is calculated pursuant to ~~15-6-134~~ subsection (8), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) (a) The income levels contained in subsection (4) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

Renumber: subsequent sections

10. Page 2, line 25.

Strike: "(1)(f)"

Insert: "(1)(e)"

Strike: "(1)(g)"

Insert: "(1)(f)"

11. Page 2, line 27.

Strike: "(1)(f)"

Insert: "(1)(e)"

Strike: "(1)(g)"

Insert: "(1)(f)"

12. Page 2, line 30 through page 3, line 7.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

13. Page 3, line 14.

Following: "units;"

Insert: "and"

14. Page 3, line 17.

Strike: subsection (iv) in its entirety

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

15. Page 3, line 22.

Strike: "(1)(e)"

Insert: "(1)(d)"

Strike: "(1)(g)"

Insert: "(1)(f)"

16. Page 3, line 29 through page 4, line 18.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

17. Page 4, line 19.

Strike: "(1)(d)"

Insert: "(1)(c)"

18. Page 9, line 22.

Strike: "(1)(e)"

Insert: "(1)(d)"

Strike: "(1)(f)"

Insert: "(1)(e)"

19. Page 9, line 29.

Strike: "FOR SINGLE-FAMILY RESIDENTIAL DWELLINGS, THE"

Insert: "The"

20. Page 9, line 30.

Strike: "\$1.5 MILLION"

Insert: "\$600,000"

21. Page 10, line 1.

Strike: "(1)(g)"

Insert: "(1)(f)"

22. Page 10, line 28 through line 30.

Strike: the first "assistance" on line 28 through "15-30-179" on line 30

Insert: "reduction provisions in [sections 1 through 8]"

23. Page 18, line 17 through line 19.

Strike: the first "assistance" on line 17 through "15-30-179" on line 19

Insert: "reduction provisions in [sections 1 through 8]"

24. Page 19, line 2.

Insert: "**Section 21.** Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) ~~(a)~~ If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

~~(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.~~

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

25. Page 24, line 13.

Insert: "Section 23. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility -- determination of indigence -- rules. (1) (a) ~~Beginning July 1, 2006, when~~ When a court orders the office to assign counsel, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately notify the court so that the court's order may be rescinded.

(c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court's order requiring the assignment is rescinded.

(d) Any determination pursuant to this section is subject to the review and approval of the court.

(2) (a) An applicant who is eligible for a public defender only because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, ~~as defined in 15-30-171,~~ is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The commission shall establish procedures and adopt rules to implement this section. Commission procedures and rules:

(a) must ensure that the eligibility determination process is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit individual public defenders from performing eligibility screening pursuant to this section.

(7) For the purposes of this section, the following definitions apply:

(a) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(b) (i) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(ii) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(c) "Household income" means the amount obtained by subtracting \$6,300 from gross household income.

(d) "Income" means federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code, plus all nontaxable income, including but not limited to:

(i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(ii) the amount of capital gains excluded from adjusted gross income;

(iii) alimony;

(iv) support money;

(v) nontaxable strike benefits;

(vi) cash public assistance and relief;

(vii) interest on federal, state, county, and municipal bonds; and

(viii) all payments received under federal social security except social security income paid directly to a nursing home."

Insert: "Section 24. Section 53-4-1103, MCA, is amended to read:

"53-4-1103. Definitions. For purposes of this part, the following definitions apply:

(1) "Comprehensive" means health insurance having benefits at least as extensive as those provided under the children's health insurance program.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including children already enrolled in the programs described in 53-4-1104(2).

(4) (a) "Enrollment partner" means an organization or individual approved by the department to assist in enrolling eligible children in the plan.

(b) An enrollment partner may be but is not limited to:

(i) a licensed health care provider;

(ii) a school;

(iii) a community-based organization; or

(iv) a government agency.

(5) "Health coverage" means a program administered by the department or a disability insurance plan, referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

(6) "Income" has the meaning provided in ~~15-30-171(9)(a)~~ 47-1-111.

(7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

(8) "Premium" means the amount of money charged to provide coverage under a public or private health coverage plan.

(9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

Insert: "Section 25. Section 53-6-1001, MCA, is amended to read:

"53-6-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file.

(2) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(3) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

(4) "Gross household income" has the meaning provided in ~~15-30-171~~ 47-1-111.

(5) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

(6) "Participating retail pharmacy" means a retail pharmacy located in this state or another business licensed to dispense prescription drugs in this state that is medicaid-approved.

(7) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

(8) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

Renumber: subsequent sections

26. Page 24, line 24 through line 28.

Strike: section 13 in its entirety

Renumber: subsequent sections

27. Page 25, line 7.

Following: "INSTRUCTION."

Insert: "(1) [Sections 1 through 8] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 1 through 8].

(2)"

Strike: "5"

Insert: "15"

28. Page 25, line 9.

Strike: "5"

Insert: "15"

29. Page 25, line 14.

Insert: "NEW SECTION. **Section 30. Repealer.** Sections 15-6-191, 15-6-193, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, and 15-30-179, MCA, are repealed."

Amendment **not** adopted as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 658 - Senator Gillan moved **HB 658**, second reading copy, be amended as follows:

1. Title, page 1, line 20 through line 22.

Strike: "EXEMPTING;" on line 20 through "SUBDIVISIONS;" on line 22

2. Page 10, line 10 through line 11.

Strike: section 5 in its entirety

Renumber: subsequent sections

3. Page 25, line 7 through line 9.

Strike: section 15 in its entirety

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 27

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 658 - Senator Essmann moved **HB 658**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 30

Nays: Branae, Brueggeman, Cooney, Erickson, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 20

Absent or not voting: None.

Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Excused: None.
Total 0

HJR 31 - Senator McGee moved **HJR 31** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Bales in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 457 - Conference Committee Report No. 1 - Senator Branae moved the Conference Committee report to **SB 457** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Total 0

SB 260 - House Amendments - Senator Gillan moved House amendments to **SB 260** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 460 - House Amendments - Senator Story moved House amendments to **SB 460** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 465 - House Amendments - Senator Hamlett moved House amendments to **SB 465** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 467 - House Amendments - Senator Balyeat moved House amendments to **SB 467** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 508 - House Amendments - Senator Brueggeman moved House amendments to **SB 508** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 40

Nays: Balyeat, R. Brown, Esp, Hinkle, Jackson, Juneau, Kaufmann, Keane, Stewart-Peregoy, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 489 - House Amendments - Senator Essmann moved House amendments to **SB 489** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 491 - House Amendments - Senator Lewis moved House amendments to **SB 491** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 263 - House Amendments - Senator Shockley moved House amendments to **SB 263 not** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

SB 418 - House Amendments - Senator Branae moved House amendments to **SB 418 not** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 507 - House Amendments - Senator Story moved House amendments to **SB 507 not** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Esp moved to reconsider the Committee of the Whole Report from earlier this day. Motion carried.

Senator Esp moved to reconsider the action on the House amendments on **SB 119**. Motion carried.

Senator Esp moved that the House amendments to **SB 119** be placed on second reading this day.

Senator Peterson moved to adopt the earlier Committee of the Whole Report.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Senator Peterson moved a Conference Committee be appointed for **HB 263**. Motion carried. President Story appointed Senator Shockley (Chair), Senator Liabe, and Senator Jent.

Senator Peterson moved a Conference Committee be appointed for **SB 418**. President Story appointed T. Brown (Chair), Senator Branae, and Senator Essmann.

Peterson move Free Conference Committee on **SB 507**. Motion carried. President Story appointed Senator McGee (Chair), President Story, and Senator Hamlett.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 662 - Senator Murphy moved **HB 662** be concurred in. Motion carried as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Keane, McGee, Peterson, Ripley, Shockley, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 119 - House Amendments - Senator Esp moved House amendments to **SB 119** not be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

MESSAGES FROM THE GOVERNOR

April 16, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 164, **"AN ACT EXPANDING THE GOOD NEIGHBOR POLICY TO INCLUDE RECREATIONAL LAND AND WATER ACQUIRED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR PUBLIC HUNTING, FISHING, TRAPPING, AND OUTDOOR RECREATION AND ESTABLISHING MAINTENANCE PRIORITIES FOR THAT LAND; DEFINING "MAINTENANCE" AS APPLIED TO PUBLIC RECREATIONAL LAND AND WATER; REQUIRING THAT A PERCENTAGE ABOVE THE PURCHASE PRICE OF THE DEPARTMENT'S ACQUIRED LAND OR WATER RIGHTS BE BUDGETED FOR MAINTENANCE; ESTABLISHING A MAINTENANCE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 23-1-126, 23-1-127, AND 87-1-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE"** for the following reasons.

SB 164 contains a statutory appropriation from a newly created maintenance account to maintain land or water acquired by the Department of Fish, Wildlife, and Parks. Montana's statute governing statutory appropriations, § 17-7-502, MCA, contains requisites for the validity of statutory appropriations. One requirement is that the statute making the statutory appropriation "must specifically state that a statutory appropriation is made as provided in [17-7-502]." The bill sent to my desk for signature omitted that reference and my amendment cures this defect.

I have discussed my amendment with the sponsor of the bill, Senator Barrett, who supports the amendment.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 164

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Amendments to Senate Bill No. 164
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:54am)

1. Page 7, line 24.

Following: "APPROPRIATED"

Insert: ", as provided in 17-7-502,"

April 16, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 268, "**AN ACT REVISING THE LAW REQUIRING CERTAIN VEHICLES TO SECURE CERTAIN LOADS WHEN TRAVELING ON A PUBLIC HIGHWAY; AND AMENDING SECTION 61-8-370, MCA**" for the following reasons:

SB 268 is intended to expand the current law requiring vehicles loaded with solid waste to be secured. My amendments are intended to clarify the bill. They remove the requirement that the vehicle must be operated for a particular "purpose," so that the purpose for which the vehicle is being operated is not relevant to the requirement that the load be secured. They strike what I believe is confusing language about "solid waste" and "nonwaste items" so as to require all vehicle loads to be sufficiently secured so as to protect public safety. And they plainly specify that a commercial vehicle is exempt from the statute being amended, § 61-8-370, MCA, only so long as the commercial vehicle is operating in compliance with all other laws and requirements governing the securement of loads.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 268

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Amendments to Senate Bill No. 268
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:54am)

1. Page 1, line 12.

Strike: "for the purpose of transporting solid waste as defined in 75-10-203"

2. Page 1, line 13.

Strike: "and nonwaste items"

3. Page 1, line 14.

Following: "otherwise"

Insert: "load the vehicle or"

4. Page 1, line 17.

Following: "vehicle"

Insert: "that is operating in compliance with state and federal laws and requirements governing the securing of loads"

April 16, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 399, **"AN ACT PROVIDING CHILDREN WITH MENTAL HEALTH NEEDS WITH IN-STATE SERVICE ALTERNATIVES TO OUT-OF-STATE PLACEMENT; ESTABLISHING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES REPORTING REQUIREMENTS REGARDING HIGH-RISK CHILDREN WITH MULTIAGENCY SERVICE NEEDS; AND AMENDING SECTION 52-2-302, MCA"** for the following reasons:

This bill charges the Department of Public Health and Services ("DPHHS") to vigilantly keep track of high-risk kids with multi-agency service needs, with the end objective of keeping those kids close to home under a "wraparound philosophy of care." I, and DPHHS Director Whiting-Sorrell, share these goals with you.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

As written, Senate Bill 399 requires DPHHS to report its efforts to reduce out-of-state placements to the children, families, health, and human services interim committee on a quarterly basis. My amendments instead require biannual reports by DPHHS.

My understanding is that the bill's purpose is not to micromanage the care provided these children, particularly their medical care, but to establish and evaluate trends and the reasons for those trends. I offer these amendments because I do not believe it is realistic to expect significant, frequent changes in the number of out-of-state placements of children whose medical needs and treatment are extremely complex. Therefore, I believe that biannual reports will provide the interim committee with the information it needs to help it formulate policy, make future legislative decisions, and assess the status of these children and the reasons for out-of-state placements. My amendments also require DPHHS to endeavor to reduce out-of-state placements on an on-going basis.

I have discussed my amendments with the bill's sponsor, Senator Laslovich, and he has indicated his support.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 399

Amendments to Senate Bill No. 399
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:54am)

1. Title, line 8.

Following: "SERVICES"

Insert: "INFORMATION COLLECTION AND"

2. Page 2, line 25.

Strike: "establish quarterly reporting requirements"

Insert: "collect the following information"

3. Page 2, line 26.

Strike: "to identify"

4. Page 3, line 11.

Strike: "Each quarterly report must analyze the efforts"

Insert: "On an ongoing basis,"

Strike: "made"

Insert: "shall attempt"

5. Page 3, line 12.

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Strike: "and establish goals and objectives for improvement in the following quarter"

6. Page 3, line 13.

Strike: "provide each quarterly"

Following: "report"

Insert: "biannually"

7. Page 3, line 14.

Following: "committee"

Insert: "concerning the information it has collected under this section and the results of the efforts it has made to reduce out-of-state placements"

April 16, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 483, **"AN ACT REVISING ENVIRONMENTAL LAWS RELATED TO ENERGY DEVELOPMENT PROJECTS; REVISING BOARD OF ENVIRONMENTAL REVIEW HEARING REQUEST PROCEDURES; REQUIRING A WRITTEN UNDERTAKING TO BE GIVEN BY CERTAIN PARTIES REQUESTING A HEARING OR A STAY BEFORE A COURT OR THE BOARD OF ENVIRONMENTAL REVIEW; MODIFYING THE EXPIRATION DATE REQUIREMENTS FOR A PERMIT OR LICENSE UNDER THE AIR QUALITY LAWS; CLARIFYING REMAND PROCEDURES; CLARIFYING THE USE OF BEST AVAILABLE CONTROL TECHNOLOGY REGULATIONS AND GUIDANCE; REQUIRING THAT THE BOARD OF ENVIRONMENTAL REVIEW ISSUE A FINAL DECISION WITHIN 150 DAYS UNDER THE AIR QUALITY LAWS AND THE MAJOR FACILITY SITING ACT; AMENDING SECTIONS 2-4-623, 2-4-702, 75-2-103, 75-2-211, 75-5-103, AND 75-20-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE"** for the following reasons:

House Bill 483, sponsored by Representative Llew Jones, establishes specific administrative procedures for challenging permit decisions for energy development projects made by the Department of Environmental Quality ("DEQ"). The bill covers two primary areas. First, it allows either party in a challenge action (the party challenging the DEQ decision or the party defending the decision) to elect to have the challenge decided by either the Board of Environmental Review or directly by a district court judge. Second, the bill sets up time frames under which challenges must be brought, limits the matters subject to challenge, establishes circumstances under which bonding will be required, and defines standards of review for the reviewing entity.

While detailed, my amendments are fairly straightforward and primarily for the purpose of ensuring that the complex details of the bill are fair and equal for all parties involved in a challenge. My amendments also are intended to

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

clarify aspects of the bill that, after working its way through amendments in both houses, I believed were confusing.

In this veto message I highlight three areas that I believe constitute my most substantive amendments. First, I add to the matters that may be raised by a party in a challenge to a final permit decision any material change made by DEQ to the draft permit submitted for public comment upon which the public did not have a meaningful opportunity to comment. Second, I change certain time frames to be more workable. For example, under my amendments, the "clock" begins to run for a final agency decision from the date of the hearing on the merits, or if no hearing is held, from the date briefing by the parties is complete, rather than from the date of the initial challenge. I also include a new provision directing the Board of Environmental Review to require the parties to prepare their case for hearing without unreasonable delay. Finally, my amendments establish the reviewing standard to a "best available control technology" determination based on fact versus law. I leave intact the requirement that the DEQ decision must be given deference by the Board or a district court. Rather than the "clear and convincing" reviewing standard contained in the bill, my amendments ensure that the reviewing entity (the Board or the district court) has the power to correct the DEQ determination if it was incorrect as a matter of law. In order to correct a factual determination by DEQ, the reviewing entity must find the factual basis "clearly erroneous."

HB 483 is a technical, legally detailed bill concerning challenges to DEQ permit decisions on energy development projects, and my amendments are by necessity technical and detailed, as well. In sum, I believe they improve the bill for all parties involved in these types of legal challenges.

I ask you to join me and Rep. Jones, the bill's sponsor, in supporting my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 483

Amendments to House Bill No. 483
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
November 4, 2009 (7:54am)

1. Title, line 9.

Strike: "CLARIFYING REMAND PROCEDURES;"

2. Title, line 10.

Strike: "REQUIRING THAT"

Insert: "ESTABLISHING DEADLINES FOR"

3. Title, line 11.

Following: "REVIEW"

Insert: "TO"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Strike: "WITHIN"
Strike: "150 DAYS"

4. Page 1, line 23.
Strike: "the party has"

5. Page 1, line 24.
Following: "period"
Strike: "2"
Following: "FEDERAL"
Insert: "or state"
Following: "LAW"
Strike: "OR"
Insert: "made during the comment period,"

6. Page 1, line 25.
Strike: "and the"
Insert: "or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment. The"
Strike: "15"
Insert: "30"

7. Page 2, line 9.
Strike: "30"
Insert: "15"

8. Page 2, line 11.
Strike: "30"
Insert: "15"

9. Page 2, line 13.
Following: "located."
Insert: "(iv)"
Strike: "the applicant or permittee fails to make an election"
Insert: "a party does not elect to submit the matter directly to district court"
Renumber: subsequent subsections

10. Page 2, line 15.
Strike: "application was filed"
Insert: "department issued its decision"

11. Page 2, lines 16 and 17.
Following: "~~evidence~~" on line 16
Strike: remainder of line 16 through "permittee" on line 17
Strike: "first"

12. Page 2, line 18.
Following: "FEDERAL"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Insert: "or state"

Following: "LAW"

Strike: "OR"

Insert: "made during the comment period,"

13. Page 2, line 19.

Following: "PERIOD"

Insert: "or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment"

14. Page 2, line 23.

Strike: "._"

15. Page 2, lines 26 through 29.

Strike: "(II)" on line 26 through "(II)" on line 29

Insert: "if"

Strike: "NOT"

16. Page 2, line 30.

Following: "CAUSE"

Insert: "unnecessary"

Strike: "._OR"

Insert: "without a reasonable basis in law or fact."

17. Page 3, line 1.

Strike: "(B) THE"

Insert: "(ii) The board or the district court may not require a written undertaking if the"

18. Page 3, lines 5 and 6.

Following: "unless" on line 5

Strike: remainder of line 5 through "filed" on line 6

Insert: "the determination was incorrect as a matter of law or the factual basis for the determination was clearly erroneous"

19. Page 3, lines 7 and 8.

Strike: "150 days" on line 7

Insert: "4 months"

Following: "from" on line 7

Strike: remainder of line 7 through "hearing" on line 8

Insert: "the close of the hearing on the merits or, if no hearing is held, within 3 months from the date that briefing by the parties is complete"

20. Page 3, line 9.

Following: "time."

Insert: "The board shall require the parties to prepare the case for hearing without unreasonable delay."

21. Page 3, lines 18 and 19.

Following: "diligence." on line 18

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Strike: remainder of line 18 through "shown." on line 19

22. Page 6, line 13.

Following: "infrastructure"

Insert: ", as defined by board rule,"

23. Page 12, line 16.

Following: "directly"

Insert: "and"

24. Page 14, line 3.

Following: "infrastructure"

Insert: ", as defined by board rule,"

25. Page 18, line 17.

Strike: "."

26. Page 18, line 20 through line 23.

Strike: "(2)" on line 20 through "(II)" on line 23

Insert: "if"

Strike: "NOT"

27. Page 18, line 23.

Following: "CAUSE"

Insert: "unnecessary"

28. Page 18, line 24.

Strike: " OR "

Insert: "without a reasonable basis in law or fact."

29. Page 18, line 25.

Strike: "(B) THE"

Insert: "(2) The district court may not require a written undertaking if the"

30. Page 19, line 7.

Strike: "FEDERAL"

Strike: "OR"

Insert: "made during the comment period,"

Strike: "and the"

Insert: "or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment. The"

31. Page 19, line 8.

Strike: "15"

Insert: "30"

32. Page 19, line 19.

Strike: "30"

SENATE JOURNAL
EIGHTY-FIRST LEGISLATIVE DAY - APRIL 16, 2009

Insert: "15"

33. Page 19, line 21.

Strike: "30"

Insert: "15"

34. Page 19, line 25.

Strike: "application was filed"

Insert: "department issued its decision"

35. Page 19, lines 26 and 27.

Following: "party" on line 26

Strike: remainder of line 26 through "permittee" on line 27

Strike: "first"

36. Page 19, line 28.

Following: "period"

Insert: "unless the issue is related to a material change in law made during the comment period, to a judicial decision issued after the comment period, or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment"

37. Page 20, line 6 through line 7.

Following: "120" on line 6

Strike: remainder of line 6 through "section" on line 7

Insert: "4 months from the close of the hearing on the merits or, if no hearing is held, within 3 months from the date that briefing by the parties is complete"

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 11:00 a.m., Friday, April 17, 2009. Motion carried.

Senate adjourned at 3:59 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-SECOND LEGISLATIVE DAY**

Helena, Montana
April 17, 2009

Senate Chambers
State Capitol

Senate convened at 11:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Black, Branae, T. Brown, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Kaufmann, Schmidt, J. Tropila, Tutvedt, and Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

4/17/2009

Correctly printed: **SR 33, SR 35, SR 38, HB 97, HB 135, HB 154, HB 655, HB 656, HB 657, HB 662, HJR 31, HJR 35.**

Correctly engrossed: **HB 130, HB 131, HB 658, SR 34.**

Correctly engrossed: **HB 132.**

Correctly enrolled: **SB 97, SB 249, SB 439.**

Signed by the President at 2:15 p.m., April 16, 2009: **SR 25, SR 29, SR 30, SR 31.**

Signed by the Secretary of the Senate at 1:30 p.m., April 16, 2009: **SR 25, SR 29, SR 30, SR 31.**

Signed by the Speaker at 10:00 a.m., April 17, 2009: **SB 356, SB 451, SB 462, SB 464, SB 476.**

Signed by the President at 6:00 p.m., April 15, 2009: **SB 451, SB 462, SB 476.**

Signed by the Secretary of the Senate at 4:20 p.m., April 15, 2009: **SB 451, SB 462, SB 476.**

Signed by the President at 2:15 p.m., April 16, 2009: **SB 356, SB 464, SR 25, SR 29, SR 30, SR 31.**

Signed by the Secretary of the Senate at 1:30 p.m., April 15, 2009: **SB 356, SB 464, SR 25, SR 29, SR 30, SR 31.**

Delivered to the Secretary of State at 4:22 p.m., April 16, 2009: **SR 25, SR 29, SR 30, SR 31.**

Examined by the sponsor and found to be correct: **SB 97, SB 249, SB 439.**

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/17/2009

HB 194, be concurred in. Report adopted.

HB 279, be concurred in. Report adopted.

FINANCE AND CLAIMS (Bales, Chairman):

4/17/2009

HB 132, be amended as follows:

1. Title, page 1, line 8 through line 9.

Strike: "REVISING PAYMENT" on line 8 through "FUNDING RESPONSIBILITIES;" on line 9

2. Page 1, line 10 through line 11.

Strike: "REQUIRING THE" on line 10 through "RULEMAKING;" on line 11

3. Title, page 1, line 12.

Strike: "IMPLEMENTATION AND"

4. Title, page 1, line 13.

Strike: "53-21-113,"

Strike: "53-21-132,"

5. Title, page 1, line 14.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Following: "~~AN~~"

Insert: "AN"

Strike: "DATES"

Insert: "DATE"

6. Page 1, line 16 through page 2, line 8.

Strike: line 16 on page 1 through line 8 on page 2 in its entirety

7. Page 4, line 23 through page 5, line 2.

Strike: section 2 in its entirety

Renumber: subsequent sections

8. Page 5, line 15.

Strike: "7 through 10"

Insert: "5 and 6"

9. Page 5, line 30.

Strike: "7 through 10"

Insert: "5 and 6"

10. Page 6, line 13.

Strike: "7 through 10"

Insert: "5 and 6"

11. Page 6, line 30 through page 7, line 27.

Strike: section 5 in its entirety

Renumber: subsequent sections

12. Page 8, line 3.

Strike: "8"

Insert: "6"

13. Page 8, line 6.

Strike: "8"

Insert: "6"

14. Page 9, line 24.

Strike: "refer the respondent to the department for"

Insert: ", with the concurrence of the county attorney, recommend to the court an"

15. Page 10, line 16 through line 17.

Following: "[sections]" on line 16

Strike: "7" on line 16 through "10" on line 17

Insert: "5 and 6"

16. Page 10, line 27 through page 11, line 16.

Strike: section 9 through section 10 in their entirety

Renumber: subsequent sections

17. Page 12, line 9 through line 13.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Strike: "**Implementation -- report**" on line 9

Insert: "**Report**"

Strike: "(1) Contracting under" on line 9 through "(2)" on line 13

18. Page 12, line 14.

Strike: "implementation status" through "[section 9]"

Insert: "use of the short-term inpatient treatment process established in [sections 5 and 6]"

19. Page 12, line 16.

Strike: "7 through 10"

Insert: "5 and 6"

20. Page 12, line 18.

Strike: "7 through 10"

Insert: "5 and 6"

21. Page 12, line 20 through line 22.

Strike: section 14 in its entirety

22. Page 12, line 24 through line 25.

Strike: "DATES"

Insert: "date"

Strike: "(1) EXCEPT AS" on line 24 through "(2), [THIS" on line 25

Insert: "[This"

23. Page 12, line 26.

Strike: line 26

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

HB 2 - The House failed to concur in Senate amendments to **HB 2**, authorized the Speaker to appoint the following Free Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 2**:

4/16/2009

Representative Sesso, Chair

Representative Hawk

Representative Hiner

Representative Jones

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/16/2009

SB 55, introduced by Steinbeisser

SB 214, introduced by Steinbeisser

SB 322, introduced by Curtiss

Senate bills concurred in and returned to the Senate:

4/16/2009

SB 97, introduced by Wanzenried

SB 249, introduced by Curtiss

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

SB 439, introduced by Story

Senate amendments to House bills concurred in:

4/16/2009

HB 42, introduced by Vincent

HB 173, introduced by Hendrick

HB 333, introduced by P. Noonan

HB 478, introduced by Grinde

Governor's amendments to House bills concurred in:

4/17/2009

HB 150, introduced by D. Brown

HB 301, introduced by Kottel

Senator J. Tropila present at this time.

Senator Windy Boy present at this time.

Senator Schmidt present at this time

Senator Hamlett at this time.

Senator Branae at this time.

Senator Essmann at this time.

Senator Black at this time.

Senator Gillan at this time.

Senator Erickson at this time.

Senator T. Brown present at this time.

Senator Tutvedt present at this time.

Senator Kauffman present at this time.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 97 - Senator Lewis moved **HB 97** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: Balyeat, Brenden, Hinkle, Shockley.

Total 4

Absent or not voting: None.

Total 0

Excused: Gebhardt.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Total 1

HB 135 - Senator Windy Boy moved **HB 135** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Hinkle.
Total 1

Absent or not voting: None.
Total 0

Excused: Gebhardt.
Total 1

HJR 35 - Senator Shockley moved **HJR 35** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 42

Nays: Erickson, Esp, Gallus, Gillan, Kaufmann, Schmidt, Zinke.
Total 7

Absent or not voting: None.
Total 0

Excused: Gebhardt.
Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senator Gebhardt present at this time.

SPECIAL ORDERS OF THE DAY

SR 33 - Senator Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolutions No.33, and that the ayes and nays be spread upon the journal.

As a member of the Montana Arts Council, in accordance with section 22-2-102, MCA:
Mark Kuipers, Missoula, Montana, for a term ending February 1, 2010.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

As a member of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:
Thayne Orton, Florence, Montana, for a term ending October 1, 2012.

As a member of the Board of Crime Control, in accordance with section 2-15-2006, MCA:
Angela Russell, Lodge Grass, Montana, for a term ending January 1, 2011.

As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:
Lee Rostad, Martinsdale, Montana, for a term ending July 1, 2014.
Jim Utterback, Helena, Montana, for a term ending July 1, 2014.
Jim Court, Billings, Montana, for a term ending July 1, 2014.
Steve Carney, Scobey, Montana, for a term ending July 1, 2012.

As a member of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:
Loren Hines, Butte, Montana, for a term ending May 28, 2014.

As members of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:
Kim Miller, Virginia City, Montana, for a term ending July 1, 2012.
Patti Jo Lane, Great Falls, Montana, for a term ending July 1, 2012.

As a member of the Board of Private Security, in accordance with section 2-15-1781, MCA:
Daniel Taylor, Glasgow, Montana, for a term ending August 1, 2009.

As members of the Board of Professional Engineers and Professional Land Surveyors, in accordance with section 2-15-1763, MCA:
John Neil, Great Falls, Montana, for a term ending July 1, 2013.
Tom Heinecke, Kalispell, Montana, for a term ending July 1, 2013.

As members of the Board of Real Estate Appraisers, in accordance with section 2-15-1758, MCA:
Kathleen Susan Gallaher, Bozeman, Montana, for a term ending May 1, 2012.
Darwin Ernst, Hamilton, Montana, for a term ending May 1, 2012.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SR 34 - Senator Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 34, and that the ayes and nays be spread upon the journal.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

As members of the County Printing Board, in accordance with section 2-15-1026, MCA:

Dan Killoy, Miles City, Montana, appointed to a term ending April 1, 2011.
Calvin J. Oraw, Sidney, Montana, appointed to a term ending April 1, 2011.
Marianne Roose, Eureka, Montana, appointed to a term ending April 1, 2011.
Milton Wester, Laurel, Montana, appointed to a term ending April 1, 2011.
Laura Obert, Townsend, Montana, appointed to a term ending April 1, 2011.

Appointed as a member to the Board of Funeral Service, in accordance with section 2-15-1743, MCA:

R.J. Brown, Lewistown, Montana, appointed to a term ending July 1, 2014.

Appointed as members to the Board of Hearing Aid Dispensers, in accordance with section 2-15-1740, MCA:

Lee Frantz Oines, Missoula, Montana, appointed to a term ending July 1, 2011.
Jim Lieberg, Helena, Montana, appointed to a term ending July 1, 2011.
Mervin Michel, Great Falls, Montana, appointed to a term ending July 1, 2012.
Brian Bolenbaugh, Missoula, Montana, appointed to a term ending July 1, 2012.

Appointed as members to the Livestock Loss Reduction and Mitigation Board, in accordance with section 2-15-3110, MCA:

Brad Radtke, Drummond, Montana, appointed to a term ending January 1, 2013.
Whitney Wankel, Bozeman, Montana, appointed to a term ending January 1, 2013.
James Cross, Kalispell, Montana, appointed to a term ending January 1, 2013.
Michael Leahy, Bozeman, Montana, appointed to a term ending January 1, 2013.
John Herman, Hot Springs, Montana, appointed to a term ending January 1, 2011.

Appointed as a member to the Board of Pharmacy, in accordance with section 2-15-1733, MCA:

Michael Bertagnolli, Three Forks, Montana, appointed to a term ending July 1, 2014.

Appointed as a member to the Board of Plumbers, in accordance with section 2-15-1765, MCA:

Donna L. Paulson, Great Falls, Montana, appointed to a term ending May 4, 2013.

Appointed as a member to the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Rick Reisig, Great Falls, Montana, appointed to a term ending July 1, 2013.

Appointed as members to the Public Employees Retirement Board, in accordance with section 2-15-1009, MCA:

Terrence M. Smith, Bozeman, Montana, appointed to a term ending April 1, 2014.
Patrick McKittrick, Great Falls, Montana, appointed to a term ending April 1, 2014.

Appointed as a member to the Board of Sanitarians, in accordance with section 2-15-1751, MCA:

Rodney Fink, Columbus, Montana, appointed to a term ending July 1, 2012.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Total 0

Excused: None.

Total 0

SR 35 - Senator Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 35, and that the ayes and nays be spread upon the journal.

As a member of the Board of Milk Control, in accordance with section 2-15-3105, MCA:

Jerrold A. Weissman, Great Falls, Montana, for a term ending January 1, 2011.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SR 38 - Senator Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 38, and that the ayes and nays be spread upon the journal.

Member of the Board of Education:

John Edwards, Billings

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 636 concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 27

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 655 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Esp, Hinkle, McGee.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 656 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 46

Nays: Curtiss, Jackson, McGee, Windy Boy.
Total 4

Absent or not voting: None.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Total 0

Excused: None.

Total 0

HB 657 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 46

Nays: Erickson, Gallus, Jackson, Zinke.

Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 658 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.

Total 30

Nays: Brueggeman, Cooney, Erickson, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 662 concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Keane, McGee, Peterson, Ripley, Shockley, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 20

Absent or not voting: None.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Total 0

Excused: None.

Total 0

HB 669 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 43

Nays: Balyeat, Essmann, Hinkle, Kaufmann, McGee, Shockley, Windy Boy.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 678 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 39

Nays: Branae, Brenden, Cooney, Hawks, Juneau, Kaufmann, Moss, Ripley, Steinbeisser, J. Tropila, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 31 failed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 23

Nays: Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 27

Absent or not voting: None.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Total 0

Excused: None.

Total 0

SB 131, as amended by the House, passed as follows:

Yeas: Branae, T. Brown, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 34

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Hinkle, Jackson, McGee, Peterson, Ripley, Tutvedt, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 176, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Gallus.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 260, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Erickson, Hamlett, Kaufmann, McGee.

Total 4

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 271, as amended by the House, passed as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 369, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 403, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Juneau, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 39

Nays: Balyeat, Brueggeman, Cooney, Erickson, Hawks, Jent, Kaufmann, Larsen, Moss, J. Tropila, Williams.
Total 11

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 460, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 465, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 467, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 489, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Black, Gallus, Kaufmann.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 491, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 45

Nays: Balyeat, Esp, Gallus, Shockley, Mr. President.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 508, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 40

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Nays: Balyeat, R. Brown, Hinkle, Jackson, Juneau, Keane, Peterson, Shockley, Stewart-Peregoy, Windy Boy.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 35 passed as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams.
Total 36

Nays: Balyeat, Barkus, Brenden, Esp, Gallus, Hinkle, Jackson, Laible, McGee, Ripley, Steinbeisser, Windy Boy, Zinke, Mr. President.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 55, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Erickson, Juneau, Kaufmann.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 48 Conference Committee report adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 305 Conference Committee report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Erickson, Kaufmann.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 310 Conference Committee report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 404 Conference Committee report adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser,

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Erickson, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 427 Free Conference Committee report adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Hinkle, Jackson.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 457 Conference Committee report adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Esp, McGee, Ripley, Steinbeisser, Tutvedt.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Peterson moved to change his vote on **HB 662** from yes to no. Without objection, so ordered.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Senator Peterson moved that a Free Conference Committee be appointed for **HB 2**, and request that the House of Representatives be requested to appoint a like committee. Motion carried. President Story appointed, Senators Bales (Chair), Lewis, and Schmidt.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on **Senate Bill 348**

Report No. 1, April 17, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 348** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 348** (reference copy -- salmon) be amended as follows:

1. Page 1, line 24.

Following: "budget session"

Insert: "of not more than 45 days"

2. Page 1, line 26.

Strike: "to increase or decrease an appropriation or"

Insert: "that appropriates money or a bill"

3. Page 1, line 29 through line 30.

Strike: "primarily" on line 29 through "reconciliation" on line 30

Insert: "a general session"

4. Page 2, line 11 through line 14.

Strike: line 11 through line 14 in their entirety

Insert: "☐ FOR splitting the current 90-day legislative session into two annual sessions with one budget session and one general session.

☐ AGAINST splitting the current 90-day legislative session into two annual sessions with one budget session and one general session."

For the Senate:

Essmann, Chair

Bales

Black

Williams

For the House:

Wilmer, Vice Chair

Himmelberger

Malek

Mendenhall

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 486**

Report No. 1, April 17, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 486** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

And, recommend that **House Bill 486** (reference copy -- salmon) be amended as follows:

1. Title, lines 9 and 10.

Strike: "PROVIDING" on line 9 through "REGULATIONS;" on line 10

Following: "COMPLIANCE WITH" on line 10

Insert: "CERTAIN"

2. Title, lines 15 and 16.

Strike: "PROVIDING" on line 15 through "NOT BE" on line 16

Insert: "ESTABLISHING WHEN A PARK DEDICATION MAY BE"

3. Title, line 17.

Strike: "76-2-113,"

4. Title, line 20.

Following: "DATE"

Insert: "AND APPLICABILITY DATES"

5. Page 8, line 6 through line 22.

Strike: sections 6 and 7 in their entirety

Renumber: subsequent sections

6. Page 11, line 3.

Following: "PLACES"

Insert: ", including but not limited to public buildings and adjacent to public rights-of-way,"

7. Page 12, line 14.

Strike: "(3)(c)"

Insert: "(3)"

8. Page 13, line 14.

Strike: "The"

Insert: "For the purposes of enforcing subsections (1)(a) through (1)(c), the"

9. Page 25, line 21.

Following: "(e)"

Insert: "except as provided in subsection (8),"

10. Page 27, line 1 through line 3.

Strike: subsection (8) in its entirety

Insert: "(8) (a) A local governing body may, at its discretion, require a park dedication for:

(i) a subsequent minor subdivision as described in 76-3-

609(3); or

(ii) a first minor subdivision from a tract of record as described in 76-3-609(2) if:

(A) the subdivision plat indicates development of condominiums or other multifamily housing;

(B) zoning regulations permit condominiums or other multifamily housing; or

(C) any of the lots are located within the boundaries of a municipality.

(b) A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required."

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

11. Page 28, line 9 through line 11.

Strike: section 26 in its entirety

Renumber: subsequent sections

12. Page 28, line 15.

Following: "APPLICABILITY."

Insert: "(1)"

Strike: "15, 22, AND 24"

Insert: "13, 20, and 22"

13. Page 28, line 17.

Strike: "15"

Insert: "13"

14. Page 28.

Following: line 17

Insert: "(2) [Section 2] applies upon adoption of a new growth policy or upon revision of an existing growth policy.

(3) [Section 21] applies upon revision of subdivision regulations or on December 31, 2010, whichever occurs first."

For the Senate:

Gillan, Chairman

Esp

Tutvedt

For the House:

Ebinger

MacLaren

Vance

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 531**
Report No. 1, April 17, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered Senate amendments to **House Bill 531** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **House Bill 531** (reference copy -- salmon) be amended as follows:

1. Page 2, line 10 through line 13.

Strike: section 3 in its entirety

Renumber: subsequent section

For the House:

Kottel, Vice Chair

Nooney

Sonju

For the Senate:

Brueggeman, Chairman

Hinkle

Windy Boy

SPECIAL ORDERS OF THE DAY

Senator R. Brown thanked the Pages for their work during the week of April 14-17, 2009.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Senator Peterson moved that the Senate be in recess until 1:00 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:00 p.m.

Roll Call: All members present, except Senators Gillan, Jackson, Larsen, Schmidt, M. Tropila, and Williams.
Quorum present.

REPORTS OF STANDING COMMITTEES

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Balyeat, Chairman):
HJR 36, be concurred in. Report adopted.

4/17/2009

Senator Williams present at this time.
Senator Schmidt present at this time.

MESSAGES FROM THE OTHER HOUSE

HB 676 - The House failed to concur in Senate amendments to **HB 676**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 676**:
4/17/2009

Representative Sesso, Chair
Representative Hawk
Representative Jones
Representative Villa

HB 645 - The House failed to concur in Senate amendments to **HB 645**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 645**:
4/23/2009

Representative Sesso, Chair
Representative Hiner
Representative McNutt
Representative Morgan

HB 5 - The House failed to concur in Senate amendments to **HB 5**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 5**:
4/17/2009

Representative Hollenbaugh, Chair
Representative Ankney
Representative Getz
Representative Kasten

HB 3 - The House failed to concur in Senate amendments to **HB 3**, authorized the Speaker to appoint the following **Free** Conference Committee, and requested that the Senate appoint a like committee to confer on **HB 3**:
4/17/2009

Representative Hollenbaugh, Chair
Representative Ankney
Representative Jones
Representative Mehlhoff

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Free Conference Committee Report No.1 adopted:

4/17/2009

SB 457, introduced by Branae

SB 507 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 507**:

4/17/2009

Representative Cohenour, Vice Chair
Representative Debby Barrett
Representative Lake
Representative Stahl

SB 418 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 418**:

4/17/2009

Representative Cohenour, Vice Chair
Representative Ankney
Representative Di. Barrett
Representative Lake
Representative Taylor

SB 263 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 263**:

4/17/2009

Representative Getz, Vice Chair
Representative Menahan
Representative Nooney
Representative K. Peterson

Senate bill concurred in as amended and returned to the Senate for concurrence in House amendments:

4/17/2009

SB 509, introduced by Gebhardt

Senate bills concurred in and returned to the Senate:

4/17/2009

SB 38, introduced by Curtiss
SB 204, introduced by Moss
SB 264, introduced by Brueggeman
SB 291, introduced by Black
SB 300, introduced by Steinbeisser
SB 303, introduced by Wanzenried
SB 511, introduced by M. Tropila

MOTIONS

Senator Peterson moved that the Senate recess until 1:25 p.m. for the purpose of caucuses. Motion carried.

Senate in recess.

Senate reconvened at 1:26 p.m.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

MOTIONS

Senator Peterson moved that a Conference Committee be appointed for **SB 119**. President Story appointed Senator Esp (Chair), Senator Lewis, and Senator Schmidt.

Senator Peterson moved to suspend the Rules and accept **SJR 25** and **SB 498** in anticipation of House action.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Larsen.

Total 1

Senator Peterson moved to reconsider action on Third Reading on **HB 674** and that the bill remain on Third Reading..

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat, Brenden.

Total 2

Absent or not voting: None.

Total 0

Excused: Larsen.

Total 1

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 55 - House Amendments - Senator Steinbeisser moved House amendments to **SB 55** be concurred in. Motion carried as follows:

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Larsen.

Total 1

SB 214 - House Amendments - Senator Steinbeisser moved House amendments to **SB 214** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Larsen.

Total 1

SB 164 - Governor's Amendments - Senator Debby Barrett moved Governor's amendments to **SB 164** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Excused: Larsen.
Total 1

SB 268 - Governor's Amendments - Senator R. Brown moved Governor's amendments to **SB 268** be concurred in.
Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Hansen, Ripley, Steinbeisser.
Total 4

Absent or not voting: None.
Total 0

Excused: Larsen.
Total 1

SB 399 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **SB 399** be concurred in.
Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Larsen.
Total 1

HB 150 - Governor's Amendments - Senator Perry moved Governor's amendments to **SB 150** be concurred in.
Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: None.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: Larsen.

Total 1

Senator Larsen present at this time.

SB 602 - Conference Committee Report No. 1 - Senator Shockley moved the Conference Committee report to **SB 602** be adopted.

SB 602 - Conference Committee Report No. 1 - Senator J. Tropila made a **substitute motion** that the Conference Committee report to **SB 602** be **not** adopted. Motion carried as follows:

Yeas: Barkus, Branae, Brenden, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Moss, Perry, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 28

Nays: Bales, Balyeat, Barrett, Black, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Laslovich, Lewis, McGee, Murphy, Peterson, Shockley, Tutvedt, Zinke, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Peterson moved to appoint a Free Conference Committee on **HB 645**. Motion carried. President Story appointed Senator Esp (Chair), Senator Peterson, and Senator Keane.

Senator Peterson moved to appoint a Free Conference Committee on **HB 676**. Motion carried. President Story appointed Senator Bales (Chair), Senator Lewis, and Senator Schmidt.

Senator Peterson moved to appoint a Free Conference Committee on **HB 5**. Motion carried. President Story appointed Senator Barkus (Chair), Senator Barrett, and Senator Williams.

Senator Peterson moved to appoint a Free Conference Committee on **HB 3**. Motion carried. President Story appointed Senator Ripley, Peterson, Windy Boy.

Senator Shockley move to segregate **HB 602** from the Committee of Whole Report.

SENATE JOURNAL
EIGHTY-SECOND LEGISLATIVE DAY - APRIL 17, 2009

Senator Shockley withdrew his motion.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Monday, April 20, 2009. Motion carried.

Senate adjourned at 2:13 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
April 20, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Wanzenried, excused. Quorum present.

BILLS AND JOURNALS:

4/20/2009

Correctly enrolled: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 403, SB 404, SB 427, SB 457, SB 460, SB 465, SB 467, SB 489, SB 491, SB 508, SB 511, SR 33, SR 34, SR 35, SR 38.**

Correctly printed: **HB 97, HB 135, HB 194, HB 279, HJR 35, HJR 36.**

Delivered to the Governor for approval at 2:20 p.m., April 17, 2009: **SB 356, SB 451, SB 462, SB 464, SB 476.**

Examined by the sponsor and found to be correct: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 465, SB 467, SB 491, SB 508, SB 511, SR 33, SR 34, SR 35, SR 38.**

Signed by the Speaker at 11:00 a.m., April 20, 2009: **SB 97, SB 249.**

Signed by the President at 3:00 p.m., April 17, 2009: **SB 97, SB 249.**

Signed by the Secretary of the Senate at 2:50 p.m., April 17, 2009: **SB 97, SB 249.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

4/20/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 5:00 p.m., Friday, April 17, 2009:

TITLE

NAME

Pages:

Chelsea Smith-West, White Sulphur Springs
Joel Colbert, Missoula
Jordan Larsen, Geraldine
Lane Nordlund, Lewistown
Matt Wier, Great Falls
Caitlin Haaland, Melstone

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, April 20, 2009:

TITLE

NAME

Pages:

Janette Craig, Carter
Josiah Moerkerke, Conrad
Karissa Woienski, Belgrade
Clare Stansberry, Lewistown
Laci Kennedy, Townsend

Report Adopted.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

REPORTS OF STANDING COMMITTEES

STATE ADMINISTRATION (Shockley, Chairman):
SR 37, be adopted. Report adopted.

4/20/2009

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 263**
Report No. 1, April 20, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 263** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 263** (reference copy -- salmon) be amended as follows:

1. Page 1, line 23.

Following: the first "the"

Strike: "MINIMUM"

2. Page 1, line 23 through line 24.

Following: "AS" on line 23

Strike: remainder of line 23 through "SUBSECTION" on line 24

Insert: "follows, except as provided in subsections"

3. Page 1, line 25.

Following: "(2)"

Strike: "."

Insert: "and (3):

(a) in every misdemeanor case, \$150; and

(b) in every felony case, \$500."

4. Page 2, line 1.

Following: "INCURRED"

Insert: "and, except as provided in subsection (3), the court shall require the defendant to pay the costs of counsel and other costs and expenses as reflected in the statement"

5. Page 2, line 16 through line 20.

Strike: subsection (5) in its entirety

For the Senate:

Shockley, Chair
Jent
Laible

For the House:

Getz, Vice Chair
Menahan
Nooney
K. Peterson

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

MESSAGES FROM THE GOVERNOR

April 18, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 533, **“AN ACT ADDING VEHICULAR HOMICIDE WHILE UNDER THE INFLUENCE AS A CRIME FOR WHICH A YOUTH 16 YEARS OF AGE OR OLDER MAY BE CHARGED AS AN ADULT IN DISTRICT COURT; AND AMENDING SECTION 41-5-206, MCA.”**

House Bill 533 adds the crime of vehicular homicide while under the influence to the list of crimes for which a youth 16 years of age or older can be charged as an adult. Unlike most of the crimes for which a youth may be charged as an adult, the crime of vehicular homicide involves the commission of a negligent not an intentional act. A youth who commits this crime has obviously made bad decisions, but is not, in all likelihood, a bad kid. When I consider the consequences of this bill, I do not believe that deterrence will be among them. I believe that the only real consequence is that the punishment will be more severe. More importantly, I am not convinced that trying this youth as an adult will produce better results in terms of rehabilitating the youth than treatment and punishment through the youth court.

I respectfully ask that you sustain my veto of House Bill 533 for the reasons stated above.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

April 19, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Yesterday, April 18, 2009, I issued a veto of House Bill 533 and returned it to the House of Representatives with a letter stating the reasons for my veto. My veto statement asked that you sustain my veto for the reasons in the letter. I discovered today that the letter also unintentionally stated that I was returning the bill with amendments. I offered no amendments to the bill, and I am writing today to clarify yesterday's letter. Please also be advised that my attorney returned the bill to the Clerk of the House yesterday, and at the time of the return, both my attorney and the Clerk signed a written acknowledgment that the bill was delivered to the House with the reasons for my veto.

I am writing to clarify the written veto message. Thank you.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

April 17, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 85, **"AN ACT CREATING A GRANT PROGRAM FOR EMERGENCY MEDICAL SERVICE PROVIDERS; ESTABLISHING ELIGIBILITY REQUIREMENTS AND REVIEW CRITERIA; CREATING A GRANT REVIEW COMMITTEE; AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO ADOPT RULES; PROVIDING A CONTINGENT APPROPRIATION; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."**

My amendments to House Bill 85 accomplish two things. First, the bill establishes a small grant program to spend \$1 million each year of the biennium for emergency service providers. The bill contains a coordination section to provide funding either through House Bill 2 or through House Bill 85, itself. If funded through House Bill 2, the Department of Transportation can use either federal or state special revenue funds to pay for the grants. My first amendment would provide the same option if funding comes through House Bill 85. In other words, it provides flexibility to allow the Montana Department of Transportation to use federal money, to the extent it is available, for the grants, not only state money from the highway nonrestricted account.

My second amendment would eliminate the grant review committee established in the bill. It consists of 10 members and, according to the fiscal note, is anticipated to cost the program \$70,000 each year of the biennium. I would rather see that money go directly to the emergency medical service providers.

I have discussed my proposed amendment with the sponsor of the bill, Rep. Sands, who supports the amendment.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to House Bill No. 85
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
April 17, 2009

1. Title, lines 6 and 7.

Following: "CRITERIA;" on line 6

Strike: remainder of line 6 through "COMMITTEE;" on line 7

2. Page 1, line 22.

Strike: "8"

Insert: "7"

3. Page 1, line 26.

Strike: "8"

Insert: "7"

4. Page 5, line 10.

Strike: ", using the review process provided for in [sections 4 and 5],"

5. Page 5, line 11.

Following: "basis"

Insert: "using the criteria contained in [section 4]"

6. Page 5, line 13.

Strike: "8"

Insert: "7"

7. Page 5, line 15 through page 6, line 3.

Strike: section 4 in its entirety

Renumber: subsequent sections

8. Page 6, lines 5 and 6.

Following: "applications" on line 5

Strike: remainder of line 5 through "and" on line 6

9. Page 6, line 14 through line 16.

Following: "department" on line 14

Strike: remainder of line 14 through "award" on line 16

Insert: "denies an application for a grant, the applicant"

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

10. Page 6, line 22.

Strike: "8"

Insert: "7"

11. Page 6, line 24.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

12. Page 6, line 25.

Strike: "5"

Insert: "4"

13. Page 6, line 26.

Strike: "as recommended by the grant review committee"

14. Page 6, lines 27 and 28.

Strike: "as" on line 27 through "committee" on line 28

15. Page 9, line 5.

Following: "INSTRUCTION."

Insert: "(1)"

16. Page 9.

Following: line 9

Insert: "(2) The department of transportation is authorized to decrease the contingent appropriation from the highway nonrestricted account in subsection (1) and there is appropriated from the federal special revenue fund the amount of money appropriated in subsection (1) if federal funds are available for the purposes of [this act]."

17. Page 9, line 14.

Strike: "8"

Insert: "7"

18. Page 9, line 16.

Strike: "8"

Insert: "7"

19. Page 9, line 26.

Strike: "8"

Insert: "7"

April 18, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 536, **"AN ACT REVISING IGNITION INTERLOCK DEVICE REQUIREMENTS; AMENDING SECTIONS 61-8-442 AND 61-8-733, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."**

I have proposed these amendments at the request of the Department of Justice. Changes made by the Senate to sections 1 and 2 of the bill (to §§ 61-8-442 and 61-8-733, MCA), resulted in an incompatibility between those criminal statutes and § 61-5-208, MCA, an administrative statute enforced by the Motor Vehicle Division governing drivers license suspensions and issuance of probationary drivers' licenses. The amendments cure the incompatibility. Additionally, the amendments sought by the Department of Justice ensure that Montana's laws are consistent with federal requirements, particularly those enacted by Congress in 2008 governing sanctions for repeat intoxicated drivers.

Finally, the amendments also reinstate the requirement contained in current law that a repeat offender is responsible for paying for the costs of leasing, installing, and maintaining the interlock device. It appears those current requirements were unintentionally eliminated when the Senate amended the bill.

Combined, I believe these amendments retain the intent of the Legislature to require interlock devices on any vehicle driven by a second or subsequent offender during any probationary drivers' license period.

I have discussed these amendments with the sponsor of the bill, Representative Malek, who supports the amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to House Bill No. 536
Reference Copy

Requested by the Governor
For the House Committee of the Whole

Prepared by Susan Byorth Fox
April 18, 2009

1. Title, line 6.
Following: "SECTIONS"
Insert: "61-5-208,"
Following: "61-8-442"
Insert: ", "
Strike: "AN IMMEDIATE"

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

2. Title, line 7.

Strike: "EFFECTIVE DATE AND"

3. Page 1, line 10.

Insert: "Section 1. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation -- limitation on issuance of probationary license -- notation on driver's license. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways, except as permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for a first offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for a first offense of operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall suspend the license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension, unless the person completes at least 45 days of the 1-year suspension and the report of conviction includes a recommendation from the court that a probationary driver license be issued subject to the requirements of 61-8-442. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license suspension remains in effect until the course, treatment, or both, are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

(3) (a) Except as provided in subsection (3)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

(4) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.

(5) (a) A driver's license that is issued after a license revocation to a person described in subsection (5)(b) must be clearly marked with a notation that conveys the term of the person's probation restrictions.

(b) The provisions of subsection (5)(a) apply to a license issued to a person for whom a court has reported a felony conviction under 61-8-731, the judgment for which has as a condition of probation that the person may not operate a motor vehicle unless:

(i) operation is authorized by the person's probation officer; or

(ii) a motor vehicle operated by the person is equipped with an ignition interlock device.""

Renumber: subsequent sections

4. Page 1, line 19.

Following: "shall"

Insert: ":

(a) if recommending that a probationary license be issued to the person,"

5. Page 1, line 21.

Following: "PERIOD"

Strike: "OR"

Insert: "and require the person to pay the reasonable cost of leasing, installing, and maintaining the device; or
(b)"

6. Page 2, line 12.

Following: "shall"

Insert: ":

(a) if recommending that a probationary license be issued to the person,"

7. Page 2, line 13.

Following: "PERIOD"

Strike: "OR"

Insert: "and require the person to pay the reasonable cost of leasing, installing, and maintaining the device; or
(b)"

8. Page 2, line 30.

Strike: line 30 in its entirety

Renumber: subsequent sections

April 18, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 557, "**AN ACT DIRECTING THE BOARD OF ENVIRONMENTAL REVIEW TO ADOPT RULES FOR THE APPROVAL OF REGIONAL PUBLIC WATER SUPPLY SYSTEMS; AMENDING SECTION 75-6-103, MCA; AND PROVIDING AN APPLICABILITY DATE.**"

House Bill 557, sponsored by Representative Tony Belcourt, directs the Board of Environmental Review to adopt rules pertaining to the Department of Environmental Quality's review of regional water systems under the statutes governing public water supplies. The bill directs the Board to establish procedures that take into account the special needs of regional water systems that result from the length of time it takes to complete the construction of these systems.

In addition to the amendments dealing with those special needs, House Bill 557 directs the Board to set review periods for plans and specifications for regional water systems at 40 calendar days for the initial review and 10 working days for subsequent reviews. This differs from the review periods contained in the current rules adopted by the Board for all systems, which are 60 calendar days for the initial review and 60 calendar days for subsequent reviews. While the Department of Environmental Quality can comply with the 40-day period for initial reviews and still meet its deadlines for other systems, the 10-working day timeframe for subsequent reviews is one that the Department cannot assure me can be met. My amendment would give the Department 20 working days for subsequent reviews. This amendment will still provide an expedited review of regional water systems while ensuring that the Department of Environmental Quality can comply with its regulatory deadlines.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

I ask you to work with me and with Representative Belcourt in supporting the proposed amendment.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to House Bill No. 557
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
April 18, 2009

1. Page 1, line 26.

Strike: "10"

Insert: "20"

April 18, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 158, **"AN ACT INCREASING THE NUMBER OF DISTRICT COURT JUDGES; PROVIDING FOR ADDITIONAL JUDGES IN THE 1ST, 11TH, AND 13TH JUDICIAL DISTRICTS TO BE ELECTED AT THE NOVEMBER 2010 GENERAL ELECTION; AMENDING SECTION 3-5-102, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."**

As passed by the Legislature, Senate Bill 158 adds three new district court judges – located in the first, eleventh, and thirteenth judicial districts – to be elected in November 2010 and begin their terms of office on January 3, 2011. While the need for additional judges is clear, so too, are the limits of our financial capacity during these financially challenging times. The amendments I propose would delay the effective date of this legislation by four years. They seek to achieve the balance of bringing a greater level of judicial services, but to do so when the state's economy has rebounded and our revenue picture has improved.

I ask for your support of my amendments to Senate Bill 158.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 158
Reference Copy
Revised

Requested by the Governor
For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 18, 2009

1. Title, line 8.

Strike: "2010"

Insert: "2014"

2. Page 1, line 28.

Strike: "2010"

Insert: "2014"

Strike: "3, 2011"

Insert: "5, 2015"

3. Page 1, line 30 through page 2, line 2.

Strike: section 3 in its entirety

Renumber: subsequent section

4. Page 2, line 5.

Strike: "2010"

Insert: "2014"

April 18, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 171, **"AN ACT CREATING THE OFFENSE OF DAMAGE TO RENTAL PROPERTY; PROVIDING A PENALTY; AND PROVIDING AN IMMEDIATE EFFECTIVE**

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

DATE AND AN APPLICABILITY DATE .”

Senate Bill 171 creates the criminal offense of damage to rental property for damage exceeding \$500 over the damage deposit, if any, or if no deposit exists, exceeding \$500. Violation of the offense carries a fine of up to \$1000 and/or 6 months in jail. Additionally, a judge is required to order restitution, though the judge has discretion as to the amount.

My amendments do three things. First, under the bill presented to me, the acts of destroying, defacing, damaging, impairing, or removing a part of the rental property constitute conduct falling within the criminal offense created under the bill. My amendment eliminates the act of “removal” of a part of the property as something that falls within the definition of the criminal offense. “Removal” of property is a category more similar to theft, and I believe should be prosecuted as such.

Second, my amendment lowers the maximum fine that can be imposed under this criminal offense from \$1,000 to \$500. This amendment will have the effect of limiting jurisdiction of a prosecution of the offense to justice court and eliminating the concurrent jurisdiction that district courts have over offenses punishable by a fine exceeding \$500. *See* §3-10-303, MCA. I ask you to keep in mind that a prosecutor is still free to exercise his or her discretion to bring criminal mischief charges for the same conduct under § 45-6-101, MCA, violation of which carries a fine of up to \$1,000. Under the criminal mischief statute, if the pecuniary loss exceeds \$1,000, felony charges can be brought.

Third, my amendment removes the restitution provisions from the bill. Criminal procedures already contain provision for the imposition of restitution by judges, and those provisions are flexible and well-established. *See* §§ 46-18-201(5) and 46-18-241 to -249, MCA. I don’t believe it is necessary to enact specific restitution provisions for this newly created offense, which may differ from the general restitution provisions applicable to all crimes.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 171
Reference Copy

For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 18, 2009

1. Page 1, line 12.

Following: "damages"

Insert: "or"

Following: "impairs"

Strike: ", or removes"

2. Page 1, line 18.

Strike: "\$1,000"

Insert: "\$500"

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

3. Page 1, lines 23 through 28.

Strike: subsection (3) in its entirety

Renumber: subsequent subsection

April 17, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 235, **“AN ACT EXPANDING THE EXEMPTION FROM LICENSING AS A PSYCHOLOGIST TO INCLUDE PSYCHOLOGICAL TESTING, EVALUATION, AND ASSESSMENT BY QUALIFIED MEMBERS OF OTHER PROFESSIONS; CLARIFYING THAT THE QUALIFIED MEMBERS OF OTHER PROFESSIONS INCLUDE LICENSED PROFESSIONAL COUNSELORS; AND AMENDING SECTIONS 37-17-104 AND 37-23-102, MCA.”**

SB 235, as passed by the legislature, expands the list of those who are authorized to do “work of a psychological nature” without being licensed by the Board of Psychologists. It includes professional counselors licensed under Title 37, chapter 23, MCA. Under the bill, professional counselors would be allowed to perform psychological testing, evaluation, and assessment as described in § 37-17-102(4)(b), MCA.

As written, the bill authorizes this practice if it is consistent with the training of the professional counselors. However, there is no direction as to who or what entity determines whether a professional counselor has received adequate training or what training is considered to be adequate. My amendment would require the Board of Social Work Examiners and Professional Counselors to promulgate rules that articulate the minimum standards of education and training required for their licensees to be authorized to conduct psychological testing. I believe that such standards are necessary and appropriate, and would ensure that consumers of mental health services receive the safe care they deserve and expect from a professional licensed by the State of Montana

I have discussed the amendment with the bill’s sponsor, Senator Murphy.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 235
Reference Copy

Requested by the Governor

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

For the Senate Committee of the Whole

1. Page 2.

Following: line 8

Insert: "(3) The board of social work examiners and professional counselors shall adopt rules that qualify a licensee under Title 37, chapter 22 or 23, to perform psychological testing, evaluation, and assessment. The rules for licensed clinical social workers and professional counselors must be consistent with the guidelines of their respective national associations. Final rules must be adopted by October 1, 2010. A qualified licensee providing services under this exemption shall comply with the rules no later than 1 year from the date of adoption of the rules."

April 17, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 290, **"AN ACT REQUIRING THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE TO REVIEW THE STATE ENERGY POLICY EACH INTERIM AND RECOMMEND CHANGES TO THE LEGISLATURE; AMENDING SECTIONS 90-4-1001 AND 90-4-1003, MCA; REPEALING SECTION 90-4-1002, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

SB 290 amends the statutory duties of the energy and telecommunications interim committee and establishes specific duties for the 2009-10 interim to be used in devising a revised state energy policy. My amendment adds to the list of issues to be studied by the committee and included in a revised policy the integration of wind energy, a key renewable resource for Montana's energy and economic future.

I have discussed my amendment with the sponsor of the bill, Senator Jackson, who supports the amendment.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 290
Reference Copy

Requested by Representative Duane Ankney

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

For the Senate Committee of the Whole

Prepared by Greg Petesch
April 17, 2009

1. Page 2, line 19.

Strike: "AND"

2. Page 2, line 20.

Following: "costs"

Insert: "; and

(ix) integrating wind energy"

April 18, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 360, "**AN ACT GENERALLY REVISING THE MONTANA MAJOR FACILITY SITING ACT; CLARIFYING THE DEFINITION OF "FACILITY"; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.**"

Senate Bill 360 revises the Major Facility Siting Act primarily by exempting from the Act geothermal plants of 50 megawatts or less and certain upgrades of transmission lines outside existing right-of-way. My amendment addresses the latter subject.

The Major Facility Siting Act currently exempts new transmission lines of 10 miles or less and upgrades within existing easements or right-of-ways, regardless of length. Senate Bill 360 exempts from Siting Act review upgrades outside existing easements or right-of-ways so long as the new portion does not exceed 10 miles in length, or is not 10% of the existing transmission right-of-way, whichever is greater.

My amendment limits the upgrade exemption to only those upgrades of existing line requiring 10 miles or less of new right-of-way. As stated, the 10 mile exemption is the same as that given construction on new transmission lines under § 75-20-104(8)(a)(i), MCA. Thus, construction of new lines and upgrades of existing lines outside existing right-of-ways would be subject to the same permitting standards.

I ask for your support of this amendment.

Sincerely,

STATE INTERNET/BBS COPY

1424

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 360
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
April 18, 2009

1. Page 3, lines 3 and 4.

Following: "LENGTH" on line 3

Strike: remainder of line 3 through "GREATER" on line 4

April 18, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 371, **"AN ACT REVISING THE DEFINITION OF "EMPLOYEE" OR "WORKER" WITH RESPECT TO WORKERS' COMPENSATION LAWS; CLARIFYING INJURIES THAT MAY NOT BE CONSIDERED AS ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT; AMENDING SECTIONS 39-71-118 AND 39-71-407, MCA; AND PROVIDING AN EFFECTIVE DATE."**

Senate Bill 371 defines certain injuries that do not arise out of and in the course and scope of employment for purposes of workers' compensation coverage. To my understanding, one of the major questions that arose during the deliberations over Senate Bill 371 was whether and to what extent the newly enacted definition changes coverage now available under current rulings by the Montana Supreme Court and generally recognized principles in workers' compensation law. I have reviewed the bill and discussed it with representatives from the Montana Department of Labor and Industry who specialize in this area. My amendments seek to clarify that the bill codifies current legal principles and standards in the area of workers' compensation law.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 158

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Reference Copy

For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
November 4, 2009 (7:55am)

1. Page 1, line 9 through line 14.

Strike: line 9 through line 14 in their entirety

Insert: "WHEREAS, the Montana Legislature finds it necessary to provide more certainty and seeks to codify a definition of injuries that do not arise out of and in the course and scope of employment and that is consistent with current rulings of the Montana Supreme Court and generally recognized principles in workers' compensation law."

April 18, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 396, **"AN ACT PROVIDING AN EXEMPTION FOR A REPLACEMENT APPROPRIATION FOR A WATER RIGHT FOR CERTAIN CHANGES IN POINTS OF DIVERSION; AND AMENDING SECTION 85-2-402, MCA."**

Senate Bill 396, sponsored by Senator Robert Story, enables a water appropriator to change an existing point of diversion without prior approval of the Department of Natural Resources and Conservation ("DNRC"), under certain conditions. Present law requires that a change in a point of diversion be pre-approved by the DNRC. Senate Bill 396 alters present law to allow for an appropriator to change a point of diversion that has become inoperable or deteriorated without prior approval of the DNRC, provided that the new point of diversion does not change the amount of water diverted or impact the water rights of other appropriators. After a new diversion is in place, SB 396 would require that the appropriator file a notice of replacement point of diversion with the DNRC. DNRC, after an assessment of the notice and, if deemed necessary, an inspection of the diversion, would then issue an authorization for the change if the new diversion fulfills all requirements.

I am concerned that SB 396, as currently drafted, could result in adverse consequences for other appropriators if more water than intended is diverted. The bill as it stands now allows the appropriator to use water as soon as the new diversion point is completed, prior to review and approval by the DNRC. If more water than intended is diverted, other appropriators would be denied the use of that water until administrative review and hearing processes are completed.

My amendments preserve the ability of an appropriator to change a point of diversion without prior approval of the DNRC, but require that the appropriator refrain from using the replacement point of diversion until the notice of

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

replacement is filed and authorization made by the Department. I have also included a time period of one year following an authorization of a replacement diversion point during which other appropriators may file an objection. This period gives potential objectors time to judge the impacts of the new diversion point on their water rights.

I ask you to join me in supporting my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
Governor

Amendments to Senate Bill No. 396
Reference Copy

Requested by The Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
April 18, 2009

1. Page 2, line 25.

Following: "(15)"

Strike: "and"

Insert: ", "

Following: "(16)"

Insert: ", and (18)"

2. Page 2, line 26.

Following: "without the"

Insert: "prior"

3. Page 9, line 27.

Following: "FORM"

Strike: "PROVIDED BY"

Insert: "available from"

Following: "THE DEPARTMENT."

Insert: "The replacement point of diversion may not be used until a notice of replacement is filed and authorization is made by the department."

4. Page 10, lines 12 through 15.

Following: "SHALL" on line 12

Strike: remainder of line 12 through "(B)" on line 15

5. Page 10, line 21.

Strike: "AN"

Insert: "Within 1 year following the authorization of the change from the department, an"

April 18, 2009

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 400, **“AN ACT LIMITING DISMISSALS IN JUSTICES' COURT; AMENDING SECTION 25-31-409, MCA; AND REPEALING SECTION 25-33-207, MCA.”**

Senate Bill 400 limits dismissals in justice court in two instances. In the first instance, a dismissal would be disallowed for nonservice of a summons or failure to proceed while a summons remains valid. The second concerns a dismissal for failure to file an undertaking when a matter is appealed from justice court.

My amendment addresses the second area involving undertakings. Appeals from justice court require the filing of an undertaking, which may not exceed twice the amount of the judgment or value of the property when the judgment is for the recovery of personal property. Claims brought in justice court may not exceed \$7,000 in value.

Current law contains two contradictory provisions concerning the dismissal of actions from justice court for failure to file an undertaking. Section 25-33-207, MCA, which is repealed under Senate Bill 400, allows a party to file the undertaking any time at or before the hearing on a motion to dismiss the appeal. Section 25-33-208, MCA, subjects the action to dismissal for failure of the party to file an undertaking within 10 days after filing a notice of appeal. My proposed amendment repeals the latter provision, not the former, as proposed in the bill. Under my amendment, a party could cure the failure to file an undertaking up to the time of the hearing on a motion to dismiss. I believe the mandatory remedy of dismissal of an action for failure to file an undertaking within 10 days is unfairly harsh.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Amendments to Senate Bill No. 400
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
April 18, 2009

1. Title, line 5.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Strike: "25-33-207"

Insert: "25-33-208"

2. Page 1, line 17.

Strike: "25-33-207"

Insert: "25-33-208"

April 19, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 446, **"AN ACT REVISING HOSPITAL LAWS TO PROVIDE LICENSING REQUIREMENTS FOR SPECIALTY HOSPITALS; REQUIRING AN IMPACT STUDY BEFORE A SPECIALTY HOSPITAL IS LICENSED; REQUIRING PAYMENT NONDISCRIMINATION AND CHARITY CARE POLICIES FOR HOSPITALS; REQUIRING HOSPITALS TO ENSURE 24-HOUR EMERGENCY CARE; AMENDING SECTIONS 50-5-101 AND 50-5-245, MCA; AND PROVIDING AN EFFECTIVE DATE."**

Senate Bill 446, sponsored by Senator Story, effectively lifts the moratorium on specialty hospitals in Montana and establishes application and licensure requirements for specialty hospitals. As you know, specialty hospitals are a subclass of hospitals exclusively engaged in the treatment of patients with a cardiac condition, an orthopedic condition, or cancer-related diseases. Unlike community hospitals, specialty hospitals serve a "niche" market, and there has been a fair amount of research and debate as to the overall impact specialty hospitals have on health care costs to Americans, one area of focus being that specialty hospitals do not serve indigent patients to the same extent as community hospitals.

Senate Bill 446 seeks to address these policy concerns by including prohibitions on hospital discrimination based on a patient's ability to pay. The bill also requires all hospitals, including specialty hospitals to have a charity care policy consistent with the tax status of the hospital.

My amendments alter the charity care policy requirements by requiring specialty hospitals to have a written charity care policy irrespective of the hospital's tax status. While I recognize that under the bill, a specialty hospital applying as a joint venture with a nonprofit hospital must have the same charity care policy as the nonprofit, my amendment will ensure that a charity care policy is in place for all specialty hospitals.

I ask for your support.

Sincerely,

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 446
Reference Copy

By Request of the Governor
For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 19, 2009

1. Page 8, line 28.

Strike: "A"

Insert: "Except as provided in subsection (3), a"

2. Page 9, line 5.

Insert: "(3) A specialty hospital must have in writing a charity care policy consistent with industry standards for nonprofit hospitals irrespective of the tax status of the specialty hospital."

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/20/2009

HB 4, introduced by Jones
HB 6, introduced by McNutt
HB 7, introduced by McNutt
HB 8, introduced by McNutt
HB 9, introduced by Hollenbaugh
HB 11, introduced by Sesso
HB 110, introduced by Sesso
HB 128, introduced by Sesso
HB 224, introduced by Hiner
HB 258, introduced by McChesney
HB 315, introduced by Blewett
HB 583, introduced by Fleming

HB 331 - The House failed to concur in Senate amendments to HB 331 and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 331**:

4/18/2009

Representative Grinde (Vice Chair)
Representative Hamilton
Representative Klock
Representative Morgan

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Governor's amendments to Senate bill concurred in and returned to the Senate:

4/20/2009

SB 18, introduced by Wanzenried

Governor's amendments to House bills concurred in on third reading and transmitted to the Senate for concurrence in the Governor's amendments:

4/18/2009

HB 98, introduced by Di. Barrett

HB 332, introduced by Getz

SPECIAL ORDERS OF THE DAY

Senator Peterson acknowledge the Legislative spouses and the spouses' gift of a table and lamp for the Senate ante room.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 130 - Senator Laslovich moved **HB 130** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 131 - Senator Shockley moved **HB 131** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 132 - Senator Jent moved **HB 132** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 194 - Senator Esp moved **HB 194** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Erickson, Kaufmann, J. Tropila, M. Tropila.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 279 - Senator Debby Barrett moved **HB 279** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Total 48

Nays: Balyeat, McGee.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 36 - Senator Barkus moved **HJR 36** be concurred in. Motion carried as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 41

Nays: Bales, Brenden, T. Brown, Esp, Gallus, Gebhardt, Hinkle, McGee, Mr. President.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 322 - House Amendments - Senator Curtiss moved House amendments to **SB 322** be concurred in. Motion carried as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Williams, Zinke.

Total 34

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, Esp, Hinkle, Laible, McGee, Perry, Peterson, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Mr. President.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 509 - House Amendments - Senator Gebhardt moved House amendments to **SB 509** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Jackson, Keane, Laible, Larsen, Laslovich, Lewis,

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 36

Nays: Branae, Cooney, Erickson, Hawks, Hinkle, Jent, Juneau, Kaufmann, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Williams.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 301 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **SB 301** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.

Total 45

Nays: Balyeat, R. Brown, Esp, Murphy, Mr. President.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 486 - Conference Committee Report No. 1 - Senator Esp moved the Conference Committee report to **SB 486** be adopted. Motion carried as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.

Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Gallus, Gebhardt, Hinkle, Jackson, Lewis, Murphy, Perry, Ripley, Shockley, J. Tropila, Zinke.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator McGee assumed the chair.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

HB 531 - Conference Committee Report No. 1 - Senator Brueggeman moved the Conference Committee report to **HB 531** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 36

Nays: Black, Branae, Cooney, Erickson, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Williams.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Brueggeman reassumed the chair.

SB 348 - Free Conference Committee Report No. 1 - Senator Essmann moved the Free Conference Committee report to **SB 348** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Lewis, Moss, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 39

Nays: R. Brown, Cooney, Erickson, Keane, Laslovich, McGee, Murphy, Schmidt, J. Tropila, M. Tropila, Wanzenried.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 97 concurred in as follows:

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Yeas: Bales, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Brenden, Curtiss, Hinkle, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 135 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 35 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Mr. President.
Total 43

Nays: Erickson, Esp, Gallus, Gillan, Schmidt, Windy Boy, Zinke.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

SB 55, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 214, as amended by the House, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, R. Brown, Erickson, Kaufmann, Shockley.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 150, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Erickson, Gallus, Juneau, Kaufmann.
Total 4

Absent or not voting: None.
Total 0

Excused: None.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Total 0

SB 164, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Steinbeisser.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 268, as amended by the Governor, concurred in as follows:

Yeas: Bales, Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Balyeat, Barrett, Brenden, Curtiss, Esp, Gebhardt, Hansen, Hinkle, Keane, Ripley, Shockley, Tutvedt.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 399, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Total 0

Excused: None.

Total 0

MOTIONS

Senator Barkus moved to change his vote on **HB 135** from no to yes. Without objection, so ordered.

Senator Balyeat moved to change his vote on **SB 509** from no to yes. Without objection, so ordered.

Senator Shockley moved to change his vote on **SB 509** from no to yes. Without objection, so ordered.

Senator Peterson moved to appoint a Free Conference Committee for **HB 331**. Motion carried. President Story appointed Senators Gebhardt (Chair), Jackson, and J. Tropila.

SPECIAL ORDERS OF THE DAY

Senator Barkus introduced the Pages for the week of April 20-25, 2009.

Senator Peterson moved the Senate recess until 4:00 p.m. Motion carried.

Senate reconvened at 4:00 p.m.

Roll Call: All present except Senators Shockley and Stewart -Peregoy, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/20/2009

HB 52, be concurred in. Report adopted.

HB 108, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House joint resolutions passed and transmitted to the Senate for concurrence:

4/20/2009

HJR 32, introduced by Ebinger

HJR 37, introduced by Arntzen

HJR 39, introduced by P. Noonan

HJR 42, introduced by Reinhart

Senate amendments to House bills concurred in:

4/20/2009

HB 152, introduced by Hamilton

HB 459, introduced by Grinde

HB 464, introduced by O'Hara

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

4/20/2009

HB 658 - The House failed to concur in Senate amendments to **HB 658**, authorized the Speaker to appoint the following Conference Committee, and requested that the Senate appoint a like committee to confer on Senate amendments to **HB 658**:

4/20/2009

Representative Jopek, Vice Chair
Representative Dick Barrett
Representative Blasdel
Representative Lake

Senate bills concurred in and returned to the Senate:

4/20/2009

SB 100, introduced by Black
SB 425, introduced by Bales

Governor's amendments to House bills concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/20/2009

HB 332, introduced by Getz
HB 483, introduced by Jones

MOTIONS

Senator McGee moved to suspend Rule 50-190, Third Reading, to allow **HB 130**, **HB 131**, and **HB 132** to be placed on Third Reading this day.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Gillan, Juneau, M. Tropila, Wanzenried.
Total 4

Absent or not voting: None.
Total 0

Excused: Stewart-Peregoy.
Total 1

Senator Peterson moved to appoint a conference committee on HB 658. Motion carried. President Story appointed Senators Essmann (Chair), Gebhardt and Gillan.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 158 - Governor's Amendments - Senator Barkus moved Governor's amendments to **SB 158** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Esp, Juneau, Schmidt, Squires, Wanzenried.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 235 - Governor's Amendments - Senator Murphy moved Governor's amendments to **SB 235** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 290 - Governor's Amendments - Senator Jackson moved Governor's amendments to **SB 290** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 360 - Governor's Amendments - Senator Keane moved Governor's amendments to **SB 360** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Cooney, Erickson, Hansen, Hawks, Juneau, Kaufmann, Larsen, M. Tropila, Wanzenried.

Total 9

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 396 - Governor's Amendments - Senator Story moved Governor's amendments to **SB 396** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 44

Nays: Cooney, Hansen, Juneau, Stewart-Peregoy, Wanzenried, Williams.

Total 6

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 446 - Governor's Amendments - Senator Story moved Governor's amendments to **SB 446** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried,

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 332 - Governor's Amendments - Senator Ripley moved Governor's amendments to **HB 332** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 130 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 131 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 132 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Ripley.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Peterson moved to amend the Conference Committee appointment on **HB 658** from a regular Conference Committee to a Free Conference Committee. Motion carried.

Senator Peterson moved the Conference Committee on **HB 602** be dissolved and a new conference committee be appointed. Motion carried. President Story appointed Senators Shockley (Chair), J. Tropila, and Balyeat.

SENATE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 20, 2009

Senator Curtiss moved to reconsider action on the Committee of the Whole Report of earlier this day.

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Branae, Cooney, Erickson, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Curtiss moved to reconsider the Second Reading action on House amendments to **SB 322**. Motion carried.

Senator Peterson moved to adopt the committee report. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Tuesday, April 21, 2009. Motion carried.

Senate adjourned at 4:35 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-FIFTH LEGISLATIVE DAY**

Helena, Montana
April 21, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Brueggeman, Jent, and Stewart-Peregoy, excused. Quorum present.

BILLS AND JOURNALS:

4/21/2009

Correctly printed: **SR 37, HB 52, HB 108, HB 130, HB 131, HB 132, HB 194, HB 279, HJR 36.**

Correctly enrolled: **SB 55, SB 214.**

Delivered to the Governor for approval at 8:50 a.m., April 21, 2009: **SB 97, SB 249.**

Examined by the sponsor and found to be correct: **SB 55, SB 214.**

MESSAGES FROM THE GOVERNOR

April 21, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 9** sponsored by Senator Erickson, **Senate Bill 22** sponsored by Senator Murphy, **Senate Bill 26** sponsored by Senator Murphy, **Senate Bill 57** sponsored by Senator Gillan, **Senate Bill 58** sponsored by Senator Gillan, **Senate Bill 62** sponsored by Senator Laible, **Senate Bill 68** sponsored by Senator Wanzenried, **Senate Bill 71** sponsored by Senator Erickson, **Senate Bill 84** sponsored by Senator Gillan, **Senate Bill 95** sponsored by Senator Brueggeman, **Senate Bill 96** sponsored by Senator Jent, **Senate Bill 104** sponsored by Senator Esp, **Senate Bill 113** sponsored by Senator Keane, **Senate Bill 123** sponsored by Senator Squires, **Senate Bill 124** sponsored by Senator Squires, **Senate Bill 126** sponsored by Senator Murphy, **Senate Bill 127** sponsored by Senator Gillan, **Senate Bill 133** sponsored by Senator Kaufmann, **Senate Bill 136** sponsored by Senator Gebhardt, **Senate Bill 148** sponsored by Senator J. Peterson, **Senate Bill 151** sponsored by Senator Brueggeman, **Senate Bill 156** sponsored by Senator Cooney, **Senate Bill 174** sponsored by Senator Perry, **Senate Bill 192** sponsored by Senator Zinke, **Senate Bill 200** sponsored by Senator Erickson, **Senate Bill 202** sponsored by Senator Hinkle, **Senate Bill 222** sponsored by Senator Hansen, **Senate Bill 226** sponsored by Senator Hawks, **Senate Bill 227** sponsored by Senator R. Brown, **Senate Bill 228** sponsored by Senator De. Barrett, **Senate Bill 247** sponsored by Senator Black, **Senate Bill 261** sponsored by Senator Wanzenried, **Senate Bill 269** sponsored by Senator R. Brown, **Senate Bill 275** sponsored by Senator Squires, **Senate Bill 276** sponsored by Senator Squires, **Senate Bill 280** sponsored by Senator Gebhardt, **Senate Bill 292** sponsored by Senator Gebhardt, **Senate Bill 294** sponsored by Senator Gillan, **Senate Bill 297** sponsored by Senator Larsen, **Senate Bill 299** sponsored by Senator J. Tropila, **Senate Bill 308** sponsored by Senator Keane, **Senate Bill 311** sponsored by Senator Gallus, **Senate Bill 330** sponsored by Senator Moss, **Senate Bill 367** sponsored by Senator Hamlett, **Senate Bill 388** sponsored by Senator Gillan, **Senate Bill 392** sponsored by Senator Brueggeman, **Senate Bill 401** sponsored by Senator Laslovich, **Senate Bill 405** sponsored by Senator Moss, **Senate Bill 424** sponsored by Senator Barkus, **Senate Bill 426** sponsored by Senator Laslovich, **Senate Bill 441**

sponsored by Senator Laslovich, **Senate Bill 444** sponsored by Senator Laslovich, **Senate Bill 447** sponsored by Senator Moss, **Senate Bill 449** sponsored by Senator Keane, and **Senate Bill 463** sponsored by Senator Wanzenried on April 21, 2009.

Please be informed that the following Senate bills were not signed, but after ten days became law: **Senate Bill 76** sponsored by Black, **Senate Bill 193** sponsored by McGee, **Senate Bill 351** sponsored by Essmann, **Senate Bill 353** sponsored by Black, **Senate Bill 361** sponsored by Ripley, **Senate Bill 375** sponsored by Peterson.

Sincerely,

BRIAN SCHWEITZER
Governor

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Wanzenried in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 322 - House Amendments - Senator Curtiss moved House amendments to **SB 322** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Cooney, Erickson, Hansen, Hawks, Kaufmann, Laslovich, Schmidt.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 52 - Senator Bales moved **HB 52** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Juneau.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 108 - Senator Lewis moved **HB 108** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 48

Nays: Esp, Mr. President.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 263 - Conference Committee Report No. 1 - Senator Shockley moved the Conference Committee report to **SB 263** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Gebhardt, Juneau.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 171 - Governor's Amendments - Senator Barkus moved Governor's amendments to **SB 171** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 371 - Governor's Amendments - Senator Perry moved Governor's amendments to **SB 371** be concurred in.

SB 371 - Governor's Amendments - Senator Perry made a **substitute motion** that Governor's amendments to **SB 371** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 31

Nays: Branae, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Larsen, Laslovich, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 98 - Governor's Amendments - Senator Erickson moved Governor's amendments to **HB 98** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke, Mr. President.
Total 40

Nays: Balyeat, Brenden, R. Brown, Gebhardt, Hinkle, Jackson, Laible, McGee, Tutvedt, Windy Boy.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 483 - Governor's Amendments - Senator Black moved Governor's amendments to **HB 483** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 46

Nays: R. Brown, Esp, McGee, Mr. President.
Total 4

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Wanzenried moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 235, as amended by the Governor, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 290, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Esp.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 348, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Lewis, Moss,

Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Balyeat, R. Brown, Cooney, Hinkle, Keane, Laslovich, McGee, Murphy, Schmidt, J. Tropila, M. Tropila, Wanzenried.
Total 12

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 446, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Barrett, Schmidt.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 509, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Windy Boy, Mr. President.
Total 35

Nays: Branae, Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Moss, Schmidt, Squires, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 194 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt,

Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Erickson, Essmann, Kaufmann, Shockley, J. Tropila, M. Tropila.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 279 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Balyeat, R. Brown, Curtiss, Esp, Gillan, Hinkle, Jackson, McGee, Schmidt.
Total 9

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 301, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: R. Brown, Murphy.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 332, as amended by the Governor, concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Brenden.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 486, Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Black, Branae, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Curtiss, Gebhardt, Hinkle, Jackson, Lewis, McGee, Ripley, Shockley, Steinbeisser.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 531, Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, T. Brown, Brueggeman, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 33

Nays: Black, Branae, Cooney, Curtiss, Erickson, Gillan, Hansen, Hawks, Juneau, Kaufmann, Keane, Larsen, Moss, Ripley, Schmidt, Steinbeisser, Williams.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 36 concurred in as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 35

Nays: Bales, Brenden, Erickson, Esp, Essmann, Gallus, Gebhardt, Hinkle, Laible, McGee, Peterson, Ripley, Shockley, Tutvedt, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SPECIAL ORDERS OF THE DAY

SR 37 - Senator Shockley moved that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 37, and that the ayes and nays be spread upon the journal. As members of the Board of Investments pursuant to section 5-5-302, MCA:

Elouise Cobell, Browning
Teresa Olcott Cohea, Helena
Jack Prothero, Great Falls
James Turcotte, Helena
Patrick McKittrick, Great Falls

Yeas: Bales, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Barkus, R. Brown, Hinkle, Lewis, McGee.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Schmidt moved to change her vote on **HB 486** from no to yes. Without objection, so ordered.

Senator Peterson moved the Senate recess until 1:00 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:00 p.m.

Roll Call: All members present. Quorum present.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 507**
Report No. 1, April 21, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 507** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 507** (reference copy -- salmon) be amended as follows:

1. Title, line 9.

Strike: "OR INDEMNITY"

2. Title, lines 10 and 11.

Following: "EASEMENTS;" on line 10

Strike: remainder of line 10 through "PURPOSES;" on line 11

3. Page 2, line 4.

Strike: "9"

Insert: "8"

4. Page 2, line 7.

Strike: "9"

Insert: "8"

5. Page 2, line 10.

Following: "mark"

Insert: "as provided in 70-16-201"

6. Page 2, line 13.

Strike: "9"

Insert: "8"

7. Page 2.

Following: line 13

Insert: "(3) "Navigable river" means a river that:

(a) was determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river; or

(b) has been adjudicated as navigable by a court of competent jurisdiction."

8. Page 4.

Following: line 21

Insert: "(3) Section 77-1-805 applies to the use of navigable rivers for which leases, licenses, or easements for the use of the bed have been granted."

9. Page 4, line 24.

Strike: "9"

Insert: "8"

10. Page 5, line 8.

Following: "(2)"

Strike: "THE"

Insert: "For the purposes of [sections 1 through 8], the"

Following: "NOT"

Insert: ": (a)"

11. Page 5, lines 9 and 10.

Strike: "OR THE INDEMNIFICATION OF THE STATE" on line 9

Following: "EASEMENT" on line 9

Strike: remainder of line 9 through "NOT" on line 10

Insert: "; or

(b)"

Strike: "OR THE INDEMNIFICATION OF THE STATE"

12. Page 5, lines 18 through 20.

Strike: section 9 in its entirety

Renumber: subsequent sections

13. Page 6, line 14.

Strike: "9"

Insert: "8"

14. Page 6, line 16.

Strike: "9"

Insert: "8"

For the Senate:

McGee, Chair
Hamlett

For the House:

Cohenour, Vice Chair
Dick Barrett
Lake
Stahl

FREE CONFERENCE COMMITTEE

on House Bill 331

Report No. 1, April 21, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 331** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 331** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 6.

Strike: "AND"

2. Title, page 1, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 2, line 12 through line 18.

Strike: subsection (i) through subsection (iv) in their entirety

Insert: "(i) \$85 for each license issued to an establishment that does not have more than two employees working at any one time; and

(ii) \$115 for establishments not referred to in subsection (1)(b)(i)."

4. Page 4, line 7 through line 8.

Strike: "as" on line 7 through "(2)" on line 8

Insert: "of \$115"

5. Page 4, line 9 through line 14.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

6. Page 4, line 18.

Strike: "(2)"

Insert: "(1)"

7. Page 4, line 20.

Strike: "(2)"

Insert: "(1)"

8. Page 4, line 25.

Strike: "(3)"

Insert: "(2)"

9. Page 4, line 27.

Insert: "NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval."

For the House:

Grinde, Vice Chair
Hamilton
Klock
Morgan

For the Senate:

Gebhardt, Chairman
Jackson
J. Tropila

MESSAGES FROM THE OTHER HOUSE

House joint resolution passed and transmitted to the Senate for concurrence: 4/21/2009

HJR 43, introduced by Wiseman

Senate amendments to House bills concurred in: 4/21/2009

HB 598, introduced by P. Noonan

HB 615, introduced by MacLaren

HB 634, introduced by McAlpin

HB 636, introduced by Dickenson

Senate bills concurred in and returned to the Senate: 4/21/2009

SB 343, introduced by Jackson

SB 475, introduced by Esp

Senate joint resolutions concurred in and returned to the Senate: 4/21/2009

SJR 3, introduced by Laible

SJR 28, introduced by J. Peterson

SJR 29, introduced by Moss

SJR 37, introduced by Essmann

Senate joint resolution concurred in as amended and returned to the Senate for concurrence in House amendments: 4/21/2009

SJR 30, introduced by Zinke

Conference Committee Report No.1 adopted: 4/21/2009

SB 263, introduced by Shockley
HB 486, introduced by MacLaren
HB 531, introduced by B. Nooney

Governor's amendments to House bills concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/21/2009

HB 85, introduced by Sands
HB 557, introduced by Belcourt

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Wanzenried in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 400 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **SB 400** be concurred in. Motion carried as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Mr. President.
Total 36

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Essmann, Gebhardt, Hinkle, Lewis, Ripley, Squires, Stewart-Peregoy, Zinke.
Total 14

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 507 - Free Conference Committee Report No. 1 - Senator Story moved the Free Conference Committee report to **SB 507** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Hawks, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: None.

Total 0

HB 85 - Governor's Amendments - Senator Juneau moved Governor's amendments to **HB 85** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 40

Nays: Balyeat, Barrett, R. Brown, Curtiss, Esp, Hinkle, McGee, Tutvedt, Zinke, Mr. President.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 557 - Governor's Amendments - Senator Windy Boy moved Governor's amendments to **HB 557** be concurred in. Motion carried as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Murphy, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 26

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Wanzenried moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Peterson moved to appoint a Conference Committee for **SB 322**. Motion carried. President Story appointed Senator Curtiss (Chair), Senator Shockley, and Senator Hansen.

SPECIAL ORDERS OF THE DAY

Retiring Senator J. Tropila gave his farewell address to the Senate.

Retiring Senator Ken Hansen gave his farewell address to the Senate.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Wednesday, April 22, 2009. Motion carried.

Senate adjourned at 1:47 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-SIXTH LEGISLATIVE DAY**

Helena, Montana
April 22, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Hansen and Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

4/21/2009

Correctly printed: **HB 52, HB 108.**

Correctly enrolled: **SB 100, SB 343, SB 425, SB 475, SB 509, SJR 3, SJR 28, SJR 29, SJR 37, SR 37.**

Signed by the Speaker at 2:15 p.m., April 21, 2009: **SB 465.**

Signed by the President at 10:30 a.m., April 21, 2009: **SB 465.**

Signed by the Secretary of the Senate at 9:00 a.m., April 21, 2009: **SB 465.**

Delivered to the Governor for approval at 2:25 p.m., April 21, 2009: **SB 465.**

Signed by the Speaker at 2:15 p.m., April 21, 2009: **SB 55, SB 214.**

Signed by the President at 12:45 p.m., April 21, 2009: **SB 55, SB 214.**

Signed by the Secretary of the Senate at 11:15 a.m., April 21, 2009: **SB 55, SB 214.**

Delivered to the Governor for approval at 3:10 p.m., April 21, 2009: **SB 55, SB 214.**

Delivered to the Governor, amendments not concurred in, at 9:45 a.m., April 22, 2009: **SB 158, SB 396.**

Delivered to the Secretary of State at 2:46 p.m., April 21, 2009: **SR 33, SR 34, SR 35, SR 38.**

Examined by the sponsor and found to be correct: **SB 100, SB 343, SB 425, SB 475, SB 509, SJR 3, SJR 28, SJR 29, SJR 37, SR 37.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the sixty-ninth, seventieth, seventy-first, seventy-second, seventy-third, seventy-fourth, seventy-fifth, and seventy-sixth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on House Bill 3

Report No. 1, April 21, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 3** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 3** (reference copy -- salmon) be amended as follows:

1. Page 1, line 23.

Strike: "\$1,697,344"

Insert: "\$2,375,784"

2. Page 2, line 8.

Following: "(2)"

Insert: "For expenditures from the Brucellosis appropriation for public information and education, the department of livestock shall contract with the extension service in the Montana university system for education and communication program services."

For the House:

Hollenbaugh, Vice Chair
Ankney
Jones
Mehlhoff

For the Senate:

Ripley, Chair
J. Peterson
Windy Boy

MESSAGES FROM THE OTHER HOUSE

HB 602 - The House dissolved the Conference Committee on House amendments to **HB 602**, and authorized the Speaker to appoint the following Free Conference Committee to confer on House amendments to **HB 602**:

4/21/2009

Representative Cohenour, Vice Chair
Representative French
Representative Randall
Representative Sonju

Senate amendments to House bill concurred in:

4/21/2009

HB 678, introduced by Pomnichowski

Governor's amendments to Senate bills not concurred in:

4/21/2009

SB 158, introduced by Barkus
SB 396, introduced by Story

MESSAGES FROM THE GOVERNOR

April 21, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 465, **"AN ACT REVISING AND CLARIFYING THE LAWS RELATED TO THE TREATMENT OF PROPERTY CONSISTING OF THE BED OF NAVIGABLE RIVERS AND STREAMS; PROVIDING FOR A REDUCTION FROM GRAZING LAND BEFORE A REDUCTION FROM CURRENT LAND USE FOR PROPERTY TAX PURPOSES; PROVIDING THAT IN A DISPUTE OVER THE OWNERSHIP OF THE BED OF A RIVER OR STREAM A PRESUMPTION MAY NOT BE MADE BASED UPON THE TAX STATUS OF THE PROPERTY; CLARIFYING THE OWNERSHIP OF STRUCTURES; CLARIFYING THE ABILITY TO CONTROL NOXIOUS WEEDS; AMENDING SECTIONS 61-8-371, 77-1-**

111, 77-1-126, 77-1-127, 77-1-806, 77-1-809, 77-3-442, 77-6-113, 77-6-115, 77-6-302, 77-6-303, AND 77-6-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE" for the following reasons:

Senate Bill 465, sponsored by Senator Hamlett, concerns the subject of navigable streambeds in areas including but not limited to taxation, irrigation structures, weed control, and others. Concerning the subject of taxation, in 2008, with new technology available and in consultation with the Revenue and Transportation Interim Committee, the Department of Revenue for the first time excluded from property taxation land underlying rivers or streams that the Department of Natural Resources and Conservation ("DNRC") considered to be owned by the State of Montana based on the type of evidence used by courts in determining navigability of rivers and streams for purposes of title.

An unexpected consequence was that certain property owners believed the Department of Revenue was acting to assert ownership of land never previously adjudicated as having been in state ownership. Among other things, Senate Bill 465 prohibits the Department of Revenue from treating land underlying streams and rivers as in state ownership unless the land has been adjudicated as owned by the state or the state is the owner of record of the property.

As passed, Senate Bill 465 includes a retroactive applicability clause, the effect of which would be to require reassessment of *all* stream beds exempted in 2008, except those stream beds previously adjudicated as navigable. Instead of requiring reassessment of *all* stream beds, my amendment would require retroactive reassessment only if the landowner made that choice. Under my amendment, the Department of Revenue will be required to notify landowners of their right to request a reassessment for 2008, and for those who so request, allow those landowners to pay taxes on the beds of the rivers and streams neither adjudicated or surveyed as navigable.

I have also included an additional minor amendment to the "whereas" provisions of the bill, to recognize that the DNRC has regulatory authority not only over the beds of rivers and streams adjudicated as navigable, but also over those stream beds determined navigable through federal surveys of the meander lines.

I have discussed these amendments with the sponsor of the bill, Senator Hamlett, who has indicated his support.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 465

Amendments to Senate Bill No. 465
Reference Copy

By Request of the Governor
For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 21, 2009

1. Title, line 12 through line 13.

Following: "DATE" on line 12

Strike: remainder of line 12 through "DATE" on line 13

2. Page 1, line 25.

Following: "NAVIGABLE"

Insert: "and was not determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river"

3. Page 3, line 25.

Following: line 24

Insert: "(3) The department shall notify landowners of their right to request and shall provide upon request a revised assessment for tax year 2008 for the bed of any stream:

(a) not adjudicated to be navigable by a court of competent jurisdiction; or

(b) not determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river."

4. Page 12, line 8 through line 9.

Strike: section 19 in its entirety

FIRST READING AND COMMITMENT OF BILLS

The following House joint resolutions were introduced, read first time, and referred to committees:

HJR 32, introduced by Ebinger, Blewett, Moss, Sands, referred to Local Government.

HJR 37, introduced by Arntzen, referred to Local Government.

HJR 39, introduced by P. Noonan, French, McClafferty, Sesso, Jopek, A. Noonan, referred to Public Health, Welfare and Safety.

HJR 42, introduced by Reinhart, Arntzen, MacLaren, Ebinger, Vance, Stahl, Berry, Bennett, Hamilton, Driscoll, Becker, Menahan, Hands, Grinde, Smith, Sands, referred to Local Government.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 43, introduced by Wiseman, Essmann, Williams, P. Beck, Boland, R. Brown, Getz, McChesney, Cohenour, Steenson, referred to Finance and Claims.

Senator Windy Boy present at this time.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brenden in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SJR 30 - House Amendments - Senator Zinke moved House amendments to **SJR 30** not be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 41

Nays: Branae, Cooney, Erickson, Gillan, Kaufmann, Schmidt, Squires, Williams.

Total 8

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

HB 331 - Free Conference Committee Report No. 1 - Senator Gebhardt moved the Free Conference Committee report to **HB 331** be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, R. Brown, Esp, Kaufmann, Shockley, M. Tropila, Tutvedt.

Total 7

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

HB 154 - Senator Lewis moved **HB 154** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 41

Nays: Balyeat, Barkus, Brenden, R. Brown, Esp, Jackson, Tutvedt, Mr. President.

Total 8

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brenden moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 171, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 45

Nays: R. Brown, Erickson, Gallus, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

SB 263, Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: R. Brown, Gallus, Gebhardt, Juneau.
Total 4

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

SB 400, as amended by the Governor, passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, McGee, Moss, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Balyeat, Brenden, R. Brown, Gebhardt, Hinkle, Lewis, Murphy, Steinbeisser, Stewart-Peregoy.
Total 9

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

SB 507, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Mr. President.
Total 42

Nays: Gallus, Hawks, Kaufmann, Moss, M. Tropila, Wanzenried, Zinke.
Total 7

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

HB 52 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Balyeat, Esp, Essmann, Hinkle, Jackson, Juneau, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

HB 85, as amended by the Governor, concurred in as follows:

Yeas: Branae, Brenden, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Black, R. Brown, T. Brown, Esp, Essmann, Hinkle, Jackson, McGee, Tutvedt, Zinke.
Total 14

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

HB 98, as amended by the Governor, concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Kaufmann, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Hinkle, Keane, Laible, McGee, Tutvedt, Mr. President.
Total 16

Absent or not voting: None.
Total 0

Excused: Hansen.

Total 1

HB 108 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

HB 483, as amended by the Governor, concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 39

Nays: Balyeat, R. Brown, Esp, Hinkle, Kaufmann, McGee, Squires, M. Tropila, Wanzenried, Williams.

Total 10

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

HB 557, as amended by the Governor, concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.

Total 41

Nays: Balyeat, R. Brown, Curtiss, Hinkle, Jackson, McGee, Tutvedt, Zinke.

Total 8

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Senator Peterson moved the Senate recess until 1:30 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

Roll Call. All members present, except Senator Bales, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

TAXATION (Essmann, Chairman):
SR 36, be adopted. Report adopted.

4/22/2009

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE on **House Bill 602** Report No. 1, April 22, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 602** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 602** (reference copy -- salmon) be accepted by the House.

For the House:

Cohenour, Vice Chair
D. Brown
French
Randall

For the Senate:

Shockley, Chairman
Balyeat
J. Tropila

MESSAGES FROM THE GOVERNOR

April 22, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 349, "**AN ACT CLARIFYING THAT CERTAIN**

CONFIDENTIAL OR PROPRIETARY INFORMATION SUBMITTED AS PART OF THE PUBLIC BIDDING OR PUBLIC CONTRACTING PROCESS FOR CERTAIN PUBLIC BUILDING AND PUBLIC HIGHWAY, ROAD, AND SIMILAR TRANSPORTATION PROJECTS IS NOT PUBLIC INFORMATION OPEN TO PUBLIC INSPECTION; AND AMENDING SECTIONS 18-2-503, 18-4-126, AND 60-2-137, MCA" for the following reasons.

Senate Bill 349, sponsored by Senator Tutvedt, was introduced to address a perceived problem that state agencies will treat protected information, such as trade secret information, submitted to state agencies under Montana's procurement laws as though that information is public information. Senate Bill 349 was written to ensure that protected information is not disseminated by state agencies. The bill amends Montana procurement and construction statutes administered by the Department of Administration and also amends design-build statutes under laws administered by the Department of Transportation.

My objection to Senate Bill 349 is twofold. First, it reverses the "*constitutional presumption* that all documents of every kind in the hands of public officials are amendable to inspection, regardless of legislation. . . ." *Great Falls Tribune v. Montana Public Service Commission*, 2003 MT 359, ¶ 54, *quoting Associated Press, Inc. v. Montana Department of Revenue*, 2000 MT 160, ¶ 85. Second, it conflicts with current procurement statutes under Title 18, chapter 4, MCA.

Regarding the constitutional presumption, the *Great Falls Tribune* decision set forth the proper procedure to be used by state agencies that have in their possession information considered to be confidential. Specifically, the court rejected any conclusory, generalized statements that information is subject to protection ("mere representations" not sufficient), and required parties to make a particularized showing, through the submission of a supporting affidavit, and agencies to make particularized findings related to the claim of confidentiality. As stated by the court: "The claimant's showing must be more than conclusory. It must be specific enough for the [agency], any objecting parties, and reviewing authorities to clearly understand the nature and basis of the . . . claims to the right of confidentiality." The court also held that the governmental agency had the "affirmative duty" to review the claim of the third party and make an "independent determination whether the records are in fact property rights which warrant due process protection. . . ." *Id.* at ¶¶ 55-57. The court also clarified, however, that if the government agency requires the filing or production of trade secrets or other confidential information, "the information's status as a trade secret or confidential proprietary information remains unchanged." *Id.* at ¶ 60.

My concern with Senate Bill 349, as presented to me, is that the amendments to § 18-4-126, MCA, found in section 2 of the bill, authorize a blanket presumption of confidentiality based on the conclusory identification of the information as trade secret information by the person submitting the information, and this standard does not meet the detailed requirements set forth in *Great Falls Tribune*.

Regarding the conflict with other statutes, § 18-4-304, MCA (which is part of Montana's procurement code, and is not amended in Senate Bill 349), provides that "proposal documents may be inspected by the public subject to [three specific limitations]": matters covered by the Uniform Trade Secrets Act, matters involving individual safety as determined by the Department of Administration, and other constitutional protections. My amendments to section 3 of the bill (the new section, which will be renumbered section 1 if you adopt my amendments) track the language and exceptions already contained in current law, in § 18-4-304, MCA, and eliminate the conflict contained in the bill.

Finally, I want you to know that the Department of Administration already has in place procedures comporting with the decision of the court in *Great Falls Tribune* allowing parties submitting confidential, trade secret information in the procurement process to make a particularized showing of confidentiality by affidavit. The Department's "Affidavit for Trade Secret Confidentiality" is located at <http://gsd.mt.gov/docs/Tradesecretaffidavit.doc>. A vendor must attach, through a separate affidavit, a particularized explanation of the validity of the trade secret claim.

My amendments to Senate Bill 349 would require the Department of Transportation to adopt a procedure similar to that used by the Department of Administration.

I ask for your support of these amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

GOVERNOR'S AMENDMENTS
TO SENATE BILL 349

Amendments to Senate Bill No. 349
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
April 22, 2009

1. Title, line 4.

Strike: "CLARIFYING THAT CERTAIN"

Insert: "REQUIRING THE DEPARTMENT OF ADMINISTRATION AND DEPARTMENT OF
TRANSPORTATION TO PROVIDE INFORMATION TO CONTRACTORS AND PROSPECTIVE
CONTRACTORS AS TO PROCEDURES THE CONTRACTORS MAY USE TO PROTECT FROM
PUBLIC DISCLOSURE"

Strike: "OR PROPRIETARY"

2. Title, lines 7 and 8.

Strike: "IS NOT PUBLIC INFORMATION OPEN TO PUBLIC INSPECTION" on line 7

Following: "AMENDING" on line 7

Strike: remainder of line 7 through "AND" on line 8

Insert: "SECTION"

3. Page 1, line 12 through page 2, line 29.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

4. Page 3, line 2.

Strike: "OR GOVERNMENTAL BODY"

5. Page 3, lines 4 and 5.

Following: "DEPARTMENT" on line 4

Strike: remainder of line 4 through "BODY" on line 5

Following: "SECRETS"

Insert: ", "

Strike: "OR PROPRIETARY INFORMATION"

Insert: "matters involving individual safety as determined by the department, and other constitutionally protected
information"

6. Page 3.

Following: line 17

Insert: "(b) The department shall provide to each prospective design-build contractor information similar to that
provided by the department of administration to contractors and prospective contractors under [section 1],

including a model affidavit."
Renumber: subsequent subsection

7. Page 3, lines 28 and 29.
Strike: subsection (6) in its entirety

8. Page 4, line 1.
Strike: "3"
Insert: "1"

9. Page 4, line 3.
Strike: "3"
Insert: "1"

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to **Senate bills** concurred in and returned to the Senate: 4/22/2009

SB 117, introduced by Wanzenried
SB 164, introduced by Debby Barrett
SB 268, introduced by R. Brown
SB 399, introduced by Laslovich

Senate joint resolution concurred in and returned to the Senate: 4/22/2009

SJR 35, introduced by Schmidt

Senate amendments to House bills concurred in: 4/22/2009

HB 10, introduced by Wiseman
HB 130, introduced by Stoker
HB 131, introduced by Stoker
HB 132, introduced by Stoker
HB 662, introduced by Arntzen
HB 669, introduced by Vincent

Governor's amendments to House bill concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/22/2009

HB 536, introduced by Malek

Conference Committee Report No.1 adopted: 4/22/2009

SB 263, introduced by Shockley

Free Conference Committee Report No.1 adopted: 4/22/2009

SB 507, introduced by Story

HB 602 - The House dissolved the Conference Committee on House amendments to **HB 602**, and authorized the Speaker to appoint the following **Free** Conference Committee to confer on **HB 602**: 4/22/2009

Representative Cohenour, Vice Chair

Representative D. Brown
Representative French
Representative Randall

SB 119 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on House amendments to **SB 119**:
4/22/2009

Representative McAlpin, Vice Chair
Representative Furey
Representative Howard
Representative Morgan

SB 322 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following Conference Committee to meet with a like committee from the Senate to confer on **SB 322**:
4/22/2009

Representative Jopek, Vice Chair
Representative Butcher
Representative Roundstone
Representative Taylor

SB 360 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 360**:
4/22/2009

Representative Menahan, Vice Chair
Representative Klock
Representative Milburn
Representative A. Noonan

MOTIONS

Senator Peterson moved that a Free Conference Committee be appointed for the Governor's amendments to **SB 360**. Motion carried. President Story appointed Senators Keane (Chair), Black, and Gebhardt.

Senator Peterson moved that a Free Conference Committee be appointed for **SJR 30**. Motion carried. President Story appointed Senators Zinke (Chair), Perry, and Laslovich.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brenden in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 465 - Governor's Amendments - Senator Hamlett moved Governor's amendments to **SB 465** be concurred in. Motion carried as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, R. Brown.
Total 2

Absent or not voting: None.
Total 0

Excused: Bales.
Total 1

HB 536 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **HB 536** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Juneau.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brenden moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Thursday, April 23, 2009. Motion carried.

Senate adjourned at 2:20 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
April 23, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President pro tem McGee presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Hansen, Kaufmann, Story, and Windy Boy, excused. Quorum present.

BILLS AND JOURNALS:

4/23/2009

Correctly printed: **HB 154, SR 36.**

Correctly enrolled: **SB 117, SB 164, SB 263, 268, SB 399, SB 507, SR 35, SR 36.**

Signed by the Speaker at 2:30 p.m., April 22, 2009: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 467, SB 491, SB 508, SB 511.**

Signed by the President at 10:30 a.m., April 21, 2009: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 467, SB 491, SB 508, SB 511.**

Signed by the Secretary of the Senate at 9:00 a.m., April 21, 2009: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 467, SB 491, SB 508, SB 511.**

Delivered to the Governor for approval at 3:20 p.m., April 22, 2009: **SB 18, SB 38, SB 48, SB 131, SB 176, SB 204, SB 260, SB 264, SB 271, SB 291, SB 300, SB 303, SB 305, SB 310, SB 369, SB 404, SB 427, SB 457, SB 460, SB 467, SB 491, SB 508, SB 511.**

Signed by the Speaker at 11:25 a.m., April 23, 2009: **SB 507.**

Signed by the President at 11:25 a.m., April 23, 2009: **SB 507.**

Signed by the Secretary of the Senate at 11:25 a.m., April 23, 2009: **SB 507.**

Delivered to the Governor for approval at 12:00 p.m., April 23, 2009: **SB 507.**

Examined by the sponsor and found to be correct: **SB 117, SB 164, SB 263, SB 268, SB 399, SB 507, SJR 35, SR 36.**

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to Senate bill not concurred in and returned to the Senate:

4/22/2009

SB 171, introduced by Barkus

SJR 30 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SJR 30**:

4/22/2009

Representative Hunter, Vice Chair

Representative B. Beck

Representative Boland

Representative Mendenhall

Senator Windy Boy present at this time.

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 3 - Free Conference Committee Report No. 1 - Senator Ripley moved the Free Conference Committee report to **HB 3** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Mr. President.
Total 2

HB 602 - Free Conference Committee Report No. 1 - Senator Shockley moved the Free Conference Committee report to **HB 602** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 47

Nays: Gallus.
Total 1

Absent or not voting: None.
Total 0

Excused: Hansen, Mr. President.
Total 2

SB 349 - Governor's Amendments - Senator Tutvedt moved Governor's amendments to **SB 349** not be concurred in.

SB 349 - Governor's Amendments - Senator Cooney made a substitute motion the Governor's amendments to **SB 349** be concurred in. Motion **failed** as follows:

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

Yeas: Cooney, Erickson, Gallus, Hawks, Jent, Juneau, Kaufmann, Keane, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 16

Nays: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke.

Total 32

Absent or not voting: None.

Total 0

Excused: Hansen, Mr. President.

Total 2

SB 349 - Governor's Amendments - Original motion that Governor's amendments to **SB 349** **not** be concurred in carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke.

Total 33

Nays: Cooney, Erickson, Gillan, Hawks, Jent, Juneau, Kaufmann, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 15

Absent or not voting: None.

Total 0

Excused: Hansen, Mr. President.

Total 2

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 465, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Hansen, Larsen.
Total 2

HB 154 concurred in as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 41

Nays: Balyeat, Barkus, Brenden, R. Brown, Hinkle, Jackson, McGee.
Total 7

Absent or not voting: None.
Total 0

Excused: Hansen, Larsen.
Total 2

HB 331, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Jackson, Jent, Juneau, Keane, Laible, Laslovich, Lewis, Moss, Murphy, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Mr. President.
Total 33

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, Curtiss, Esp, Hinkle, Kaufmann, McGee, Perry, Shockley, Tutvedt, Windy Boy, Zinke.
Total 15

Absent or not voting: None.
Total 0

Excused: Hansen, Larsen.
Total 2

HB 536, as amended by the Governor, concurred in as follows:

Yeas: Balyeat, Barkus, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

Nays: Bales, Brenden, Gebhardt, Juneau.
Total 4

Absent or not voting: None.
Total 0

Excused: Hansen, Larsen.
Total 2

SPECIAL ORDERS OF THE DAY

SR 36 - Mr. President, I move that the nomination transmitted by the Governor be concurred in and confirmed and consented to by the Senate in accordance with Resolution No. 36, and that the ayes and nays be spread upon the journal.

Dan Bucks, Helena--Director, Department of Revenue

Yeas: Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Bales, Balyeat, Brenden, R. Brown, Gebhardt, McGee.
Total 6

Absent or not voting: None.
Total 0

Excused: Hansen.
Total 1

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 119**
Report No. 1, April 22, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 119** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 119** (reference copy -- salmon) be amended as follows:

1. Page 6, line 18.

Strike: "AND AVAILABLE RESOURCES"

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

For the Senate:

Esp, Chair
Lewis
Schmidt

For the House:

McAlpin, Vice Chair
Furey
Howard
Morgan

Senator Peterson moved the Senate recess until 1:30 p.m. this day. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

Roll Call: All members present, except Senator Hansen, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/23/2009

HB 158, be concurred in. Report adopted.

HB 213, be concurred in. Report adopted.

HB 644, be concurred in. Report adopted.

HJR 43, be concurred in. Report adopted.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 418**
Report No. 1, April 23, 2009

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 418** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 418** (reference copy -- salmon) be amended as follows:

1. Page 9.

Following: line 13

Insert: "NEW SECTION. Section 9. Coordination instruction. If House Bill No. 261 is not passed and approved, then [section 3 of this act], amending 15-30-136, is void."

2. Page 9, line 17.

Strike: "10(2)"

Insert: "11(2)"

For the Senate:

T. Brown, Chair
Branae
Essmann

For the House:

Cohenour, Vice Chair
Dick Barrett
Lake
Taylor

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

MESSAGES FROM THE OTHER HOUSE

HB 171 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 171**:

4/23/2009

Representative Kottel, Vice Chair
Representative Blewett
Representative K. Peterson
Representative Regier

Conference Committee Report No.1 adopted:

4/23/2009

HB 602, introduced by Cohenour

HB 676 - The House dissolved the **Free** Conference Committee on House amendments to **HB 676**.

4/23/2009

MESSAGES FROM THE GOVERNOR

April 23, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 123, "**AN ACT REDUCING THE STATUTORY APPROPRIATIONS FOR THE GROWTH THROUGH AGRICULTURE PROGRAM AND FOR RESEARCH AND COMMERCIALIZATION PROJECTS; EXTENDING THE TERMINATION DATE FOR CERTAIN ALLOCATIONS AND STATUTORY APPROPRIATIONS OF THE INTEREST INCOME FROM \$140 MILLION OF THE COAL SEVERANCE TAX PERMANENT FUND; AMENDING SECTION 15-35-108, MCA, SECTION 3, CHAPTER 481, LAWS OF 2003, AND SECTION 6, CHAPTER 481, LAWS OF 2003; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.**"

House Bill 123, sponsored by Rep. Llew Jones, extends for 10 years (from 2009 to 2019) the sunset of the growth through agriculture program and the research and commercialization projects funded through interest income from certain of the coal severance tax permanent fund, which otherwise would be deposited in the general fund. The bill also reduces the funding of these programs from their current level by half.

The Senate amended the bill to restore the funding of these programs to their current level beginning July 1, 2012, or for fiscal year 2013. My amendment restores the bill to its introduced version. My amendment will save the

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

general fund \$3 million in the 2013 biennium and through the extended life of this legislation. Given our current fiscal challenges, I believe limiting the funding for these valuable but non-essential programs is the economically prudent thing to do.

I ask for your support of my amendments.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to House Bill No. 123
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
April 23, 2009

1. Title, lines 10 and 11.

Following: "DATES" on line 10

Strike: remainder of line 10 through "DATE" on line 11

2. Page 4, line 8.

Following: "2"

Strike: "2"

Insert: "and"

Following: "3"

Strike: ", AND 5"

3. Page 4, line 10.

Strike: section 5 in its entirety

April 23, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 52, "**AN ACT ESTABLISHING A GROUND WATER**

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

INVESTIGATION PROGRAM; PROVIDING FOR PRIORITIZATION OF SUBBASINS BY THE GROUND WATER ASSESSMENT STEERING COMMITTEE; ADDING A MEMBER OF THE DEVELOPMENT COMMUNITY TO THE GROUND WATER ASSESSMENT STEERING COMMITTEE; PROVIDING A CONTINGENT APPROPRIATION FOR THE PROGRAM; AMENDING SECTION 2-15-1523, MCA; AND PROVIDING AN EFFECTIVE DATE."

House Bill 52 establishes a ground water investigation program under the guidance of the existing ground water assessment steering committee. The information collected through this program will be invaluable in developing plans and models for Montana subbasins that are current, comprehensive, and accurate to assist the state in planning for agricultural, industrial, and development uses, as well as conservation and ecological protection.

My proposed amendment restores one-time-only funding in the amount of \$4.2 million, as originally requested by the interim Water Policy Committee, for this important mission.

I have discussed my proposed amendment with the sponsor of the bill, Rep. McNutt, who supports the amendment.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to House Bill No. 52
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Lisa Mecklenberg Jackson
April 23, 2009

1. Page 2, line 25.

Strike: "\$900,000"

Insert: "\$4.2 million"

2. Page 2, line 30.

Strike: "\$900,000"

Insert: "\$4.2 million"

MOTIONS

Senator Peterson moved the Conference Committee on SB 322 be dissolved and that a Free Conference Committee be appointed. Motion carried. President Story appointed Senators Curtiss (Chair), Hinkle, and Windy Boy

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 119 - Conference Committee Report No. 1 - Senator Esp moved the Conference Committee report to **SB 119** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

HJR 39 - Senator Juneau moved **HJR 39** be concurred in. Motion carried as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Laible, McGee, Perry, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: Hansen.

Total 1

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

SPECIAL ORDERS OF THE DAY

Farewell addresses were given by Senators Perry, Black, Barkus, and Bales.

SENATE JOURNAL
EIGHTY-SEVENTH LEGISLATIVE DAY - APRIL 23, 2009

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:00 a.m., Friday, April 24, 2009. Motion carried.

Senate adjourned at 2:12 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
April 24, 2009

Senate Chambers
State Capitol

Senate convened at 8:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Hinkle, excused. Quorum present.

BILLS AND JOURNALS:

4/24/2009

Correctly printed: **HB 158, HB 213, HB 644, HJR 39, HJR 43.**

Correctly enrolled: **SB 235, SB 290, SB 400, SB 446, SJR 39.**

Delivered to the Secretary of State at 2:57 p.m., April 23, 2009: **SR 37.**

Signed by the President at 6:00 p.m., April 22, 2009: **SB 100.**

Signed by the Speaker at 9:00 a.m., April 24, 2009: **SB 100.**

Signed by the Secretary of the Senate at 2:35 p.m., April 22, 2009: **SB 100.**

Delivered to the Governor for approval at 9:20 a.m., April 24, 2009: **SB 100.**

Amendatory veto returned to Governor, not concurred in, at 12:40 p.m., April 23, 2009: **SB 349**

Signed by the President at 6:15 p.m., April 23, 2009: **SR 36.**

Signed by the Secretary of the Senate at 3:20 p.m., April 23, 2009: **SR 36.**

Delivered to the Governor for approval at 12:00 p.m., April 23, 2009: **SB 507.**

Delivered to the Secretary of State at 11:38 a.m., April 24, 2009: **SJR 3, SJR 28, SJR 37, SR 36.**

Signed by the Speaker at 9:00 a.m., April 24, 2009: **SB 343, SB 425, SB 475, SB 509, SJR 3, SJR 28, SJR 29, SJR 37.**

Signed by the President at 5:45 p.m., April 24, 2009: **SB 343, SB 425, SB 475, SB 509, SJR 3, SJR 28, SJR 29, SJR 37, SR 37.**

Signed by the Secretary of the Senate at 2:35 p.m., April 22, 2009: **SB 343, SB 425, SB 475, SB 509, SJR 3, SJR 28, SJR 29, SJR 37, SR 37.**

Delivered to the Secretary of State at 3:01 p.m., April 24, 2009: **SJR 35.**

Delivered to the Governor for approval at 12:40 p.m., April 24, 2009: **SB 343, SB 425, SB 475, SB 509.**

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on Senate Joint Resolution 30
Report No. 1, April 23, 2009**

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Joint Resolution 30** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Joint Resolution 30** (reference copy -- salmon) be amended as follows:

1. Title, line 6.

Following: "SYSTEM"

Insert: "AND LAWS RELATED TO THE MONTANA STATE FUND"

2. Title, line 7.

Following: "DRIVERS"

Insert: "AND THE MONTANA STATE FUND"

3. Page 1, line 23.

Following: "COMPENSATION"

Insert: "; and

WHEREAS, a February 2009 Legislative Audit Division report concluded that legal compliance risks faced by the Montana State Fund may be higher because of an internal and external lack of regulatory oversight mechanisms, which is of potential significance because of Montana State Fund's current market dominance of 67% of a market that is shared with private carriers providing workers' compensation insurance, excluding self-insured employers; and

WHEREAS, statutory direction for the Montana State Fund to operate as a self-sustaining business in a manner similar to that of a privately operated mutual insurance business has resulted in the Montana State Fund developing compensation and incentive plans and premium and other performance measures similar to those of private companies"

4. Page 2, line 11.

Following: "COMPENSATION"

Insert: ";

(6) structural issues in Montana, particularly as they relate to the three-tiered system involving self-insurers, private carriers, and the Montana State Fund"

5. Page 2, following line 23.

Insert: "BE IT FURTHER RESOLVED, that the study examine the operation and structure of the Montana State Fund, the Montana State Fund's relationship with state government and other insurers, and state oversight of the Montana State Fund."

For the Senate:

Zinke, Chair
Laslovich
Perry

For the House:

Hunter, Vice Chair
B. Beck
Boland
Mendenhall

MESSAGES FROM THE GOVERNOR

April 23, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 507, "**AN ACT GENERALLY REVISING AND CLARIFYING LAWS RELATED TO THE TREATMENT OF PROPERTY CONSISTING OF THE BED OF NAVIGABLE RIVERS; REQUIRING AUTHORIZATION FROM THE BOARD OF LAND COMMISSIONERS FOR USES ON THE BEDS OF NAVIGABLE RIVERS; REQUIRING THE BOARD OF LAND COMMISSIONERS TO ADOPT**

RULES FOR PROVIDING EASEMENTS, LEASES, OR LICENSES FOR USES ON THE BEDS OF NAVIGABLE RIVERS; RESTRICTING REQUIREMENTS FOR INSURANCE OR INDEMNITY; CLARIFYING THE AUTHORITY OF THE BOARD OF LAND COMMISSIONERS TO GRANT EASEMENTS; REQUIRING THE STATE TO SURVEY RIVERS AND STREAMS ADJUDICATED AS NAVIGABLE FOR TITLE PURPOSES; AND AMENDING SECTION 77-2-101, MCA."

Senate Bill 507 addresses the regulatory authority of the Department of Natural Resources and Conservation ("DNRC") over the use of the beds of navigable waters, with certain exceptions such as uses existing prior to statehood and uses associated with hydroelectric sites. The bill limits the DNRC's regulatory authority to only those rivers adjudicated as navigable or meandered by federal surveyors at or near the time of statehood.

In the process of navigating its way through the legislature, Senate Bill 507 was amended to prohibit DNRC from requiring a prospective lessor, licensee, or easement holder to obtain liability insurance as a condition for issuance of the lease, license, or easement. My amendment removes this prohibition. I do not believe the prohibition makes good business sense, I object to the absolute nature of the prohibition, and I do not believe it makes good fiscal sense for the State of Montana.

I have discussed my proposed amendments with the bill's sponsor, Senator Story, who supports them. I ask for your support, as well.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 507
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
April 23, 2009

1. Title, line 9.

Strike: "RESTRICTING REQUIREMENTS FOR INSURANCE"

Following: "INDEMNITY"

Strike: "1"

2. Page 4, line 29.

Strike: "-- PROHIBITION"

Strike: "(1)"

3. Page 5, line 2.

Strike: "(A)"

Insert: "(1)"

Renumber: subsequent subsections

4. Page 5, lines 14 through 18.

Strike: subsection (2) in its entirety

April 24, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 65, **"AN ACT GENERALLY REVISING TRUST LAND FUNDING LAWS; DEFINING "DISTRIBUTABLE REVENUE"; PROVIDING A NEW FUNDING FORMULA; REVISING LAWS GOVERNING TRUST LAND ADMINISTRATION ACCOUNTS AND THEIR USES; CREATING AN EARNINGS RESERVE ACCOUNT; CREATING THE FOREST IMPROVEMENT ACCOUNT; ELIMINATING THE RESOURCE DEVELOPMENT ACCOUNT, THE RECREATIONAL USE ACCOUNT, THE STATE TIMBER SALE ACCOUNT, AND THE STATE SPECIAL REVENUE ACCOUNT FOR COMMERCIAL LEASING RENTAL PAYMENTS; TRANSFERRING UNENCUMBERED BALANCES; REQUIRING THE BOARD OF REGENTS TO DESIGNATE HOW CERTAIN TIMBER SALE PROCEEDS ARE DISTRIBUTED; AMENDING SECTIONS 17-2-107, 17-3-1003, 18-2-107, 20-9-341, 20-9-620, 20-25-422, 77-1-101, 77-1-108, 77-1-109, 77-1-127, 77-1-605, 77-1-613, 77-1-802, 77-1-808, 77-1-809, 77-1-810, 77-1-815, 77-1-905, 77-2-328, 77-2-362, 77-5-204, AND 77-5-219, MCA; REPEALING SECTIONS 77-1-602, 77-1-604, 77-1-606, 77-1-607, 77-1-608, AND 77-1-609, MCA; AND PROVIDING AN EFFECTIVE DATE"** for the following reasons.

Senate Bill 65, sponsored by Senator Hawks, generally revises trust land funding laws by changing the statutory limits for the funding of administrative costs and consolidating numerous funding sources.

The purpose of my amendment is to restore Senate Bill 65 back to its original version as introduced and requested by the Department of Natural Resources and Conservation ("DNRC"). The bill was amended in the House to shift almost \$4 million onto the state's general fund from mineral royalties to pay for DNRC's trust administration costs beginning in fiscal year 2014. Given the economic situation, I do not believe this is the time to support such a significant cost-shift onto the general fund, despite the fact that the cost-shift would not occur until July 1, 2013.

Sincerely,

BRIAN SCHWEITZER
Governor

Amendments to Senate Bill No. 65
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
April 23, 2009

1. Page 8, line 15.

Strike: "25"

Insert: "23"

2. Page 8, line 22.

Strike: "25"

Insert: "23"

3. Page 9, lines 9 through 11.

Following: "DIFFERENCE." on line 9

Strike: remainder of line 9 through line 11 in their entirety

4. Page 9, line 13 through page 10, line 29.

Strike: section 9 in its entirety

Renumber: subsequent sections

5. Page 12, line 5 through page 13, line 7.

Strike: section 11 in its entirety

Renumber: subsequent subsections

6. Page 21, line 19.

Strike: "26"

Insert: "24"

7. Page 23, line 5.

Strike: "25"

Insert: "23"

8. Page 23, line 18.

Strike: "25"

Insert: "23"

9. Page 23, line 20.

Strike: "25"

Insert: "23"

10. Page 23, line 22.

Strike: "26"

Insert: "24"

11. Page 23, line 24.

Strike: "26"

Insert: "24"

12. Page 23, line 26.

Following: "act"

Strike: remainder of line 26 in its entirety

Insert: "[This"

13. Page 23, line 28.

Strike: subsection (2) in its entirety

April 23, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 11, **"AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR PRELIMINARY ENGINEERING GRANTS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; TERMINATING CERTAIN PRIOR TREASURE STATE ENDOWMENT GRANTS; AMENDING SECTION 90-6-701, MCA, AND SECTION 1, CHAPTER 383, LAWS OF 2007; AND PROVIDING EFFECTIVE DATES"** for the following reasons.

My amendments are to correct a clerical error to an internal section reference in House Bill 11, the TSEP bill. I ask for your support.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 11

Amendments to House Bill No. 11
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
April 23, 2009

1. Page 1, line 24.

Strike: "7"

Insert: "11"

MESSAGES FROM THE OTHER HOUSE

Governor's amendments to Senate bills concurred in and returned to the Senate: 4/23/2009

SB 235, introduced by Murphy
SB 290, introduced by Jackson
SB 371, introduced by Perry
SB 400, introduced by Laslovich
SB 446, introduced by Story

Senate bill concurred in as amended and returned to the Senate: 4/23/2009

SB 498, introduced by Bales

SB 322 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 322**:

4/23/2009

Representative Jopek, Vice Chair
Representative Butcher
Representative French
Representative Taylor

Free Conference Committee Report No.1 adopted: 4/23/2009

HB 3, introduced by Ankney

Free Conference Committee Report No.1 adopted: 4/23/2009

HB 331, introduced by Morgan

MOTIONS

Senator Peterson moved the Senate recess until 8:25 a.m. for the purpose of caucuses. Motion carried.

Senate in recess.

Senator Hinkle present at this time.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE on **Senate Bill 322** Report No. 1, April 23, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 322** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 322** (reference copy -- salmon) be amended as follows:

1. Title, line 7 through line 8.

Strike: "APPLICATION" on line 7 through "FEES" on line 8

Insert: "REGISTRATION PROVISIONS"

2. Page 1, line 15.

Strike: "WHO IS NOT A HOBBYIST BEEKEEPER AND IS"

3. Page 2, line 27.

Strike: "A"

Insert: "Except as provided in 80-6-114, a"

4. Page 3, line 4.

Strike: "(I)"

Strike: "EXCEPT AS PROVIDED IN SUBSECTION (2)(B)(II), THE"

Insert: "The"

5. Page 3, line 7.

Strike: subsection (ii) in its entirety

6. Page 9, line 22.

Following: "--VOLUNTARY"

Insert: "-- voluntary"

7. Page 9.

Following: line 25

Insert: "(1) A hobbyist apiary site is exempt from the registration provisions of this part, but a hobbyist beekeeper may voluntarily register with the department under this section. A hobbyist beekeeper voluntarily registering a site shall pay any required registration fee but is not required to reregister pursuant to 80-6-102."

Renumber: subsequent subsections

8. Page 13, line 26.

Strike: "A"

Insert: "Except as provided in subsection (2), a"

9. Page 13, line 28.

Strike: "\$25,000"

Insert: "\$1,000"

10. Page 14.

Following: line 5

Insert: "(2) (a) A person violating or aiding in the violation of the provisions of 80-6-202 is subject to an administrative civil penalty of not more than \$10,000 for each offense. Assessment of a penalty under this subsection (2)(a) may be made in conjunction with any other warning, order, or administrative action that is issued by the department under this part. The proceeds of an administrative civil penalty must be deposited in the state special revenue account provided for in 80-6-315.

(b) A person who is assessed a penalty for violating 80-6-315 is also subject to payment of costs incurred by the department for inspections or investigations related to the violation."

Renumber: subsequent subsections

For the Senate:

Curtiss, Chair
Hinkle
Windy Boy

For the House:

Jopek, Vice Chair
Butcher
French
Taylor

MOTIONS

Senator Peterson moved that a Free Conference Committee be appointed on the Governor's amendments to **SB 171**. Motion carried. President Story appointed Senators Barkus (Chair), Perry, and Jent.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 498 - Senator Bales moved consideration of **SB 498** be placed at the bottom of the second reading board. Motion carried.

Senator Schmidt excused at this time.

HB 158 - Senator Juneau moved **HB 158** be concurred in. Motion carried as follows:

Yeas: Bales, Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 36

Nays: Balyeat, Barkus, Barrett, Brenden, T. Brown, Gebhardt, Hinkle, Jackson, McGee, Ripley, Shockley, Steinbeisser, Tutvedt.

Total 13

Absent or not voting: None.

Total 0

Excused: Schmidt.

Total 1

Senator Schmidt present at this time.

HJR 43 - Senator Wanzenried moved **HJR 43** be concurred in. Motion **failed** as follows:

Yeas: Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 25

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 25

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 43 - Senator J. Peterson moved **HJR 43** be **indefinitely postponed**. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.

Total 26

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 24

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 418 - Conference Committee Report No. 1 - Senator Branae moved the Conference Committee report to **SB 418** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 498 - House Amendments - Senator Bales moved House amendments to **SB 498** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Jackson, Kaufmann, McGee, Shockley, M. Tropila, Wanzenried.

Total 7

Absent or not voting: None.

Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried.
Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 507 - Governor's Amendments - Senator Story moved Governor's amendments to **SB 507** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Kaufmann, M. Tropila, Wanzenried.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 30 - Free Conference Committee Report No. 1 - Senator Zinke moved the Free Conference Committee report to **SJR 30** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Esp, Gillan, Keane, Wanzenried.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 119, Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 3, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Essmann, Hinkle.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 602, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Hamlett, Hansen, Hinkle, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Windy Boy, Zinke, Mr. President.
Total 37

Nays: Branae, T. Brown, Gebhardt, Gillan, Hawks, Jackson, Jent, Juneau, Kaufmann, Larsen, Steinbeisser,

Tutvedt, Williams.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 674 concurred in as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 37

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Essmann, Hinkle, McGee, Ripley, Steinbeisser, Tutvedt.
Total 13

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HJR 39 concurred in as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Laible, McGee, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

ANNOUNCEMENTS

Committee meetings were announced by Committee chairmen.

Senator Peterson moved the Senate recess until 1:30 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

Roll Call. All members present. Quorum present.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on Senate Bill 171

Report No. 1, April 24, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 171** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **Senate Bill 171** (reference copy -- salmon) be amended as follows:

1. Page 1, line 13.

Strike: the first "\$500"

Insert: "\$1,000"

Strike: the second "\$500"

Insert: "\$1,000"

2. Page 1, line 24.

Following: "COURT"

Insert: "pursuant to 46-18-201(5) and 46-18-241 through 46-18-249"

3. Page 1, line 25 through line 28.

Strike: "UPON" on line 25 through "CONVICTED."

For the Senate:

Barkus, Chair
Jent
Perry

For the House:

Kottel, Vie Chair
Blewett
K. Peterson
Regier

MESSAGES FROM THE OTHER HOUSE

Senate joint resolution concurred in and returned to the Senate: 4/24/2009

SJR 39, introduced by Brueggeman

Governor's amendments to Senate bill concurred in and returned to the Senate: 4/24/2009

SB 465, introduced by Hamlett

Free Conference Committee Report No.1 adopted: 4/24/2009

HB 602, introduced by Cohenour

Conference Committee Report No.1 adopted: 4/24/2009

SB 119, introduced by Esp

Governor's amendments to House bills concurred in and transmitted to the Senate for concurrence in the

Governor's amendments:

4/24/2009

HB 52, introduced by McNutt

HB 123, introduced by Jones

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 65 - Governor's Amendments - Senator Hawks moved Governor's amendments to SB 65 be concurred in. Motion **carried** as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 322 - Conference Committee Report No. 1 - Senator Curtiss moved the Conference Committee report to SB 322 be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: Balyeat.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Yeas: Bales, Brueggeman, Cooney, Erickson, Esp, Gallus, Hamlett, Hansen, Hawks, Jent, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 27

Nays: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Gillan, Hinkle, Jackson, Juneau, Kaufmann, Lewis, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 52 - Governor's Amendments - Senator Perry moved Governor's amendments to **HB 52** be concurred in. Motion carried as follows:

Yeas: Bales, Brueggeman, Cooney, Erickson, Esp, Gallus, Hamlett, Hansen, Hawks, Jent, Keane, Laible, Larsen, Laslovich, McGee, Moss, Murphy, Perry, Schmidt, Shockley, Squires, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 27

Nays: Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Gillan, Hinkle, Jackson, Juneau, Kaufmann, Lewis, Peterson, Ripley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt.

Total 23

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Laslovich moved the Committee of the Whole report be adopted. Report **not** adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 418, Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Hinkle, Jackson, McGee.

Total 3

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 498, as amended by the House, passed as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 43

Nays: Balyeat, Barkus, Hinkle, Jackson, Kaufmann, Shockley, Wanzenried.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 507, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Mr. President.

Total 43

Nays: Juneau, Kaufmann, Larsen, M. Tropila, Wanzenried, Williams, Zinke.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 30, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 46

Nays: Erickson, Esp, Keane, Ripley.

Total 4

Absent or not voting: None.

Total 0

Excused: None.
Total 0

MOTIONS

Senator Peterson moved to appoint a Free Conference Committee on the Governor's Amendments to **SB 371**.
Motion carried. President Story appointed Senators Perry (Chair), Senator Steinbeisser, and Senator Laslovich.

SPECIAL ORDERS OF THE DAY

Senator Barkus thanked the Pages for their work during the week of April 20-24, 2009.

Peterson moved the Senate recess until 4:00 p.m. this day. Motion carried.

Senate in recess.

Senate reconvened at 4:00 p.m.

Roll Call. All members present, except Essmann, Gebhardt, Gillan, Kaufmann, Steinbeisser, Tutvedt. Quorum present.

Senator Gebhardt present at this time.
Senator Kaufmann present at this time.
Senator Gillan present at this time.
Senator Steinbeisser present at this time.
Senator Essmann present at this time.
Senator Tutvedt present at this time.

SPECIAL ORDERS OF THE DAY

Representative O'Hara introduced Libby Gurnett, Helena, who gave a narrative about former Montana Governor, Judy Martz.

MESSAGES FROM THE GOVERNOR

April 24, 2009

The Honorable Robert Story, Jr.
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 263, **"AN ACT REVISING LAWS GOVERNING THE OFFICE OF STATE PUBLIC DEFENDER; REQUIRING ASSIGNED COUNSEL TO FILE CERTAIN COSTS WITH THE DISTRICT COURT; CLARIFYING THAT AN ASSIGNMENT OF COUNSEL BY THE OFFICE OF STATE PUBLIC DEFENDER IS SUBJECT TO INQUIRY AND DENIAL BY A COURT;**

AMENDING SECTIONS 46-8-113 AND 47-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

My amendment changes the effective date from passage and approval to July 1, 2009. Implementation of the bill will require the Office of Public Defender to change its accounting system as a result of mandatory costs against convicted clients, and the Office of Public Defender needs a window of time to make the necessary changes to its system.

I have discussed my amendment with the sponsor of the bill, Senator Jackson, who supports the amendment.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 263
Reference Copy (Ivory)

By Request of the Governor
For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 24, 2009

1. Title, line 14.

Strike: "IMMEDIATE"

2. Page 12, line 18.

Strike: "on passage and approval"

Insert: "July 1, 2009"

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Laslovich in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 263 - Governor's Amendments - Senator Shockley moved Governor's amendments to **SB 263** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 171 - Free Conference Committee Report No. 1 - Senator Barkus moved the Free Conference Committee report to **SB 171** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 123 - Governor's Amendments - Senator Bales moved Governor's amendments to **SB 123** be concurred in. Motion **failed** as follows:

Yeas: Bales, R. Brown, T. Brown, Cooney, Curtiss, Esp, Gallus, Gillan, Hansen, Hawks, Juneau, Keane, Laible, Lewis, McGee, Moss, Schmidt, Stewart-Peregoy, J. Tropila, Windy Boy, Mr. President.

Total 21

Nays: Balyeat, Barkus, Barrett, Black, Branae, Brenden, Brueggeman, Erickson, Essmann, Gebhardt, Hamlett, Hinkle, Jackson, Jent, Kaufmann, Larsen, Laslovich, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke.

Total 29

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 123 - Senator McGee made a **substitute motion** that **SB 123** be segregated from the Committee of the Whole report and the remainder of the report be adopted. Motion carried.

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 65, as amended by the Governor, passed as follows:

Yeas: Bales, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 38

Nays: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Essmann, Gebhardt, Hinkle, Jackson, McGee, Steinbeisser.

Total 12

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 322, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 10:00 a.m., Monday, April 27, 2009. Motion carried.

Senate adjourned at 4:27 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-NINTH LEGISLATIVE DAY**

Helena, Montana
April 27, 2009

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan, Jackson, and Laslovich, excused. Quorum present.

BILLS AND JOURNALS:

4/27/2009

Correctly printed: **HB 158, HB 213, HB 644, HJ 32.**

Correctly enrolled: **SB 119, SB 418, SB 498, SB 465, SJR 19, SJ 30.**

Examined by the sponsor and found to be correct: **SB 119, SB 235, SB 290, SB 400, SB 418, SB 446, SB 465, SB 489, SJR 19, SJR 30, SJR 39.**

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the seventy-seventh, seventy-eighth, seventy-ninth, eightieth, eighty-first, and eighty-second legislative days, find the same to be correct

Senator Curtiss, Chair

MESSAGES FROM THE OTHER HOUSE

Free Conference Committee Report No.1 adopted:

4/24/2009

SB 322, introduced by Curtiss

SJR 30, introduced by Zinke

Conference Committee Report No.1 adopted:

4/27/2009

SB 418, introduced by Branae

SB 371 - The House acceded to the request of the Senate and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **SB 371**:

4/27/2009

Representative Hunter, Vice Chair

Representative B. Beck

Representative P. Beck

Representative Milburn

HB 676 - The House failed to concur in the Senate amendments to **HB 676** and authorized the Speaker to appoint the following **Free** Conference Committee to meet with a like committee from the Senate to confer on **HB 676**:

4/27/2009

Representative Sesso, Vice Chair

Representative Hawk

Representative Hiner

Representative Jones

Governor's amendments to **House bill** concurred in and transmitted to the Senate for concurrence in the Governor's amendments:

4/27/2009

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

HB 11, introduced by Sesso

Senate joint resolution concurred in and returned to the Senate:

4/27/2009

SJR 19, introduced by J. Peterson

Senator Gillan present at this time.

Senator Jackson present at this time.

MOTIONS

Senator Gebhardt moved that **SB 510** be placed on Second Reading this day. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.

Total 43

Nays: Cooney, Erickson, Kaufmann, Moss, Wanzenried, Windy Boy.

Total 6

Absent or not voting: None.

Total 0

Excused: Laslovich.

Total 1

Senator Laslovich present at this time.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 213 - Senator Zinke moved **HB 213** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 43

Nays: Balyeat, Barkus, Brenden, Hinkle, Jackson, Tutvedt, Mr. President.

Total 7

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 644 - Senator Gallus moved **HB 644** be concurred in. Motion carried as follows:

Yeas: Bales, Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Nays: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Hinkle, Jackson, Laible, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report **not** adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Peterson moved the Senate recess until 1:30 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

All members present, except Senator Gallus, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

LOCAL GOVERNMENT (Esp, Chairman):
HJR 32, be concurred in. Report adopted.

4/27/2009

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **Senate Bill 371**
Report No. 1, April 27, 2009

Mr. President and Mr. Speaker:

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

We, your Free Conference Committee met and considered **Senate Bill 371** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted as follows:

BE ADOPTED WITH NO RECOMMENDATION

And, recommend that **Senate Bill 371** (reference copy -- salmon) be accepted by the Senate.

For the Senate:

Perry, Chair
Laslovich
Steinbeisser
Steinbeisser

For the House:

B. Beck
Milburn

FREE CONFERENCE COMMITTEE
on **House Bill 5**
Report No. 1, April 27, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 5** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 5** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 11 through line 12.

Following: "COSTS;"

Strike: remainder of line 11 through line 12 in their entirety

2. Page 3, line 19.

Strike: in both places "2,000,000 2,000,000 [LRBP Fund and Total]"

Insert: in both places "1,150,000 1,150,000 [LRBP Fund and Total]"

3. Page 5, line 21.

Insert: "500,000 [Authority only]"

Strike: "1,600,000 [Total]"

Insert: "2,100,000 [Total]"

4. Page 6, line 1.

Following: page 5, line 21

Insert: "Authority only funds may include federal special revenue, auxiliary, donations, grants, and higher education funds."

5. Page 6, line 4.

Following: line 3

Insert: "UM-Helena College of Technology Project Completion 850,000 850,000 [LRBP Fund and Total]"

6. Page 8, line 1.

Strike: in both places "1,525,000 [State Special Revenue and Total]"

Insert: in both places "1,041,400 [State Special Revenue and Total]"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

For the House:

Hollenbaugh, Vice Chair
Ankney
Getz

For the Senate:

Barkus, Chairman
Debby Barrett
Williams

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 510 - House Amendments - Senator Gebhardt moved House amendments to **SB 510** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 39

Nays: Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Moss, J. Tropila, M. Tropila, Wanzenried.
Total 10

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

HB 11 - Governor's Amendments - Senator Brueggeman moved Governor's amendments to **HB 11** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

HB 123 - Governor's Amendments - Senator Brueggeman moved Governor's amendments to **HB 123 not** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Essmann, Gebhardt, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Cooney, Erickson, Esp, Gillan, Moss, Schmidt, Stewart-Peregoy, Wanzenried, Williams.
Total 9

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 52, as amended by the Governor, concurred in as follows:

Yeas: Bales, Barrett, Branae, Brenden, Brueggeman, Cooney, Curtiss, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 38

Nays: Balyeat, Barkus, Black, R. Brown, T. Brown, Esp, Essmann, Hinkle, Jackson, Juneau, Stewart-Peregoy.
Total 11

Absent or not voting: None.
Total 0

Excused: Gallus.
Total 1

HB 158 concurred in as follows:

Yeas: Black, Branae, R. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 35

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Esp, Gebhardt, Hinkle, Jackson, Ripley, Shockley, Steinbeisser, Tutvedt.

Total 14

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 171, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 42

Nays: Balyeat, R. Brown, Erickson, Juneau, Ripley, Shockley, Windy Boy.

Total 7

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SB 263, as amended by the Governor, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Juneau.

Total 1

Absent or not voting: None.

Total 0

Excused: Gallus.

Total 1

SPECIAL ORDERS OF THE DAY

Senator Dan McGee gave his farewell address to the Senate.

Senator Gallus present at this time.

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Senator McGee assumed the chair.

President Robert Story gave his farewell address to the Senate.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Senator Peterson moved the Senate recess until 4:00 p.m. Motion carried.

Senate in recess.

Senate reconvened at 4:00 p.m.

Roll Call. All members present, except Gillan and Jackson, excused. Quorum present

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE
on **House Bill 658**
Report No. 1, April 27, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 658** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted as follows:

BE ADOPTED WITH NO RECOMMENDATION
And, recommend that **House Bill 658** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 10.

Following: "PROPERTY;"

Insert: "REVISING THE LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM; REVISING THE EXTENDED PROPERTY TAX ASSISTANCE PROGRAM;"

2. Title, page 1, line 20 through line 22.

Strike: "EXEMPTING" on line 20 through "SUBDIVISIONS;" on line 22

3. Title, page 2, line 6.

Following: "TAXPAYERS;"

Insert: "PROVIDING AN APPROPRIATION;"

4. Title, page 2, line 7.

Following: "~~15-6-211;~~"

Insert: "15-6-193,"

5. Page 3, line 3 through line 7.

Strike: "any person" on line 3 through "both" on line 7

Insert: "one or more qualified claimants:

(i) for tax year 2009, whose federal adjusted gross income did not exceed the thresholds established in subsection (2)(b)(i); or

(ii) for tax years after tax year 2009, whose total household income did not exceed the thresholds established

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

in subsection (2)(b)(i)"

6. Page 3, line 30.

Following: "based on"

Insert: "the"

Following: "income"

Insert: "for the preceding calendar year of the owner or owners who occupied the property as their primary residence"

7. Page 4, line 28.

Insert: "(4) (a) As used in this section, "qualified claimants" means one or more owners who:

(i) occupied the residence as their primary residence for more than 7 months during the preceding calendar year;

(ii) had combined income for the preceding calendar year that does not exceed the threshold provided in subsection (2)(b); and

(iii) file a claim for assistance on a form that the department prescribes on or before April 15 of the year for which the assistance is claimed.

(b) For the purposes of subsection (1)(c), total household income is the income as reported on the tax return or returns required by chapter 30 or 31 for the year in which the assistance is being claimed excluding losses, depletion, and depreciation and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under chapter 30 or 31, household income means the household's total income as it would have been calculated under this subsection (4)(b) if the claimant had been required to file a return.

(c) The combined income of two or more owners who are qualified claimants:

(i) may not exceed the married couple and head of household thresholds provided in subsection (2)(b); and

(ii) determines the amount of tax reduction under subsection (2)(b)."

8. Page 9, line 18.

Insert: "Section 4. Section 15-6-193, MCA, is amended to read:

"15-6-193. Extended property tax assistance -- phase in. (1) For the purpose of mitigating extraordinary market value increases during revaluation cycles that begin after December 31, 2008, the rate of taxation of ~~class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)(a)~~ qualified residences is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted only for the current tax year and may not be granted for a previous year.

(3) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31 of the last year of the previous revaluation cycle unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that increases the market value of the land by more than 25%.

(4) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply for revaluation cycles beginning after December 31, 2008:

(a) (i) ~~The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal. The taxable value after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal.~~

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

~~_____ (ii) The tax rate before reappraisal is the tax rate that was in effect during the last year of the previous reappraisal cycle.~~

~~_____ (iii) The tax rate after reappraisal is the tax rate that will be in effect during the last year of the current reappraisal cycle.~~

~~_____ (iv) The homestead exemption before reappraisal is the homestead exemption that was in effect during the last year of the previous reappraisal cycle.~~

~~_____ (v) The homestead exemption after reappraisal is the homestead exemption that will be in effect during the last year of the current reappraisal cycle.~~

~~_____ (b) The dollar increase in tax liability is measured as the percentage change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal times the mill levy applied to the property before reappraisal. The tax liability after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal times the mill levy applied to the property before reappraisal. The mill levy applied to the property before reappraisal is the total of all mills applied to the property in the last year of the previous reappraisal cycle.~~

~~_____ (c) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.~~

~~_____ (d) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.~~

~~_____ (5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 24% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.~~

~~_____ (b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 30% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.~~

~~_____ (c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate will be calculated such that the total increase in taxable value over the reappraisal cycle is 36% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.~~

_____ (a) The change in taxable value before reappraisal is the 2008 tax year value adjusted for any new construction or destruction that occurred in the 2008 tax year. The taxable value before reappraisal for the 2009 tax year and subsequent years is the same as the 2008 tax year value if no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes are made to the property during 2008 or subsequent tax years.

_____ (b) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal in 2009 times 0.66 times 0.0301. The taxable value after reappraisal is calculated by multiplying the 2009 market value after reappraisal times 0.53 times 0.0247.

_____ (c) The dollar increase in tax liability is measured as the change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal in 2009 times 0.66 times 0.0301 times the tax year 2008 mill levy applied to the property. The tax liability after

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

reappraisal is calculated by multiplying the 2009 market value after reappraisal times 0.53 times 0.0247 times the tax year 2008 mill levy applied to the property. The tax year 2008 mill levy is the total of all mills applied to the property for fiscal year 2009.

(d) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(e) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2009, the tax rate is 0.03269 times the value before reappraisal divided by the 2009 phase-in value.

(ii) For tax year 2010, the tax rate is 0.03546 times the value before reappraisal divided by the 2010 phase-in value.

(iii) For tax year 2011, the tax rate is 0.03823 times the value before reappraisal divided by the 2011 phase-in value.

(iv) For tax year 2012, the tax rate is 0.04115 times the value before reappraisal divided by the 2012 phase-in value.

(v) For tax year 2013, the tax rate is 0.04374 times the value before reappraisal divided by the 2013 phase-in value.

(vi) For tax year 2014 and after, the tax rate is 0.04648 times the value before reappraisal divided by the 2014 phase-in value.

(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2009, the tax rate is 0.03301 times the value before reappraisal divided by the 2009 phase-in value.

(ii) For tax year 2010, the tax rate is 0.03612 times the value before reappraisal divided by the 2010 phase-in value.

(iii) For tax year 2011, the tax rate is 0.03925 times the value before reappraisal divided by the 2011 phase-in value.

(iv) For tax year 2012, the tax rate is 0.04257 times the value before reappraisal divided by the 2012 phase-in value.

(v) For tax year 2013, the tax rate is 0.0456 times the value before reappraisal divided by the 2013 phase-in value.

(vi) For tax year 2014 and after, the tax rate is 0.04873 times the value before reappraisal divided by the 2014 phase-in value.

(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 36%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:

(i) For tax year 2009, the tax rate is 0.03332 times the value before reappraisal divided by the 2009 phase-in value.

(ii) For tax year 2010, the tax rate is 0.03678 times the value before reappraisal divided by the 2010 phase-in value.

(iii) For tax year 2011, the tax rate is 0.04028 times the value before reappraisal divided by the 2011 phase-in value.

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

(iv) For tax year 2012, the tax rate is 0.04399 times the value before reappraisal divided by the 2012 phase-in value.

(v) For tax year 2013, the tax rate is 0.04739 times the value before reappraisal divided by the 2013 phase-in value.

(vi) For tax year 2014 and after, the tax rate is 0.0598 times the value before reappraisal divided by the 2014 phase-in value.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section:

(a) "entity" means:

(i) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

(ii) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person; and

(b) "qualified residence" means any class four residential dwelling in Montana that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling actually occupied by itself or in combination with another class four residential dwelling in Montana for at least 7 months a year."

Renumber: subsequent sections

9. Page 10, line 10 through line 11.

Strike: section 5 in its entirety

Renumber: subsequent sections

10. Page 25, line 8 through line 10.

Strike: section 15 in its entirety

Insert: "NEW SECTION. Section 15. Appropriation -- contingency. (1) There is appropriated \$1,587,053 from the general fund to the department of revenue for the biennium ending June 30, 2011, for the administration of [this act].

(2) If there is a specific appropriation for the administration of the mitigation of reappraisal pursuant to [this act] in House Bill No. 2, then the appropriation made in subsection (1) is void."

Insert: "COORDINATION SECTION. Section 16. Coordination instruction. If both Senate Bill No. 115 and [this act] are passed and approved, then [section 1 of Senate Bill No. 115], amending 15-6-134, is void."

Renumber: subsequent sections

For the House:

Blasdel
Lake

For the Senate:

Essmann, Chairman
Gebhardt
Gillan

MOTIONS

Senator Peterson moved to appoint a Conference Committee on the Governor's amendments to **HB 123**. Motion carried. President Story appointed Senators Brueggeman (Chair), T. Brown, and Hansen.

Senator Jackson present at this time.

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Senator Gillan present at this time.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 371 - Free Conference Committee Report No. 1 - Senator Perry moved the Free Conference Committee report to **SB 371** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Cooney, Erickson, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Moss, Squires, M. Tropila, Wanzenried, Williams.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 5 - Free Conference Committee Report No. 1 - Senator Barkus moved the Free Conference Committee report to **HB 5** be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 645 - Senator Esp moved consideration of **HB 645** be placed at the bottom of the second reading board for the purpose of amendment. Motion carried.

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

HJR 32 - Senator Erickson moved **HJR 32** be concurred in. Motion carried as follows:

Yeas: Black, Branae, R. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, McGee, Ripley, Steinbeisser.
Total 15

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

Senate at ease.

FREE CONFERENCE COMMITTEE
on **House Bill 645**
Report No. 2 April 27, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 645** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 645** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 12.

Following: "ACCOUNT;"

Insert: "INCREASING THE ELIGIBILITY FOR CASH ASSISTANCE BENEFITS FROM THE TANF BLOCK GRANT;"

2. Title, page 1, line 19.

Following: "PROGRAM;"

Insert: "PROVIDING A FUND TRANSFER FROM THE STATE GENERAL FUND TO THE SENIOR CITIZEN AND PERSONS WITH DISABILITIES TRANSPORTATION SERVICES ACCOUNT;"

3. Title, page 1, line 21.

Following: "~~53-4-1115,~~"

Insert: "53-4-212,"

4. Page 3, line 20.

Strike: "43"

Insert: "44"

Strike: "44"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Insert: "45"

5. Page 3, line 21.

Strike: "45"

Insert: "46"

6. Page 4, line 13.

Strike: "43"

Insert: "44"

7. Page 4, line 14.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

8. Page 4, line 19.

Strike: "43"

Insert: "44"

Strike: "44"

Insert: "45"

9. Page 4, line 20.

Strike: "45"

Insert: "46"

10. Page 5, line 11.

Strike: "43"

Insert: "44"

11. Page 5, line 12.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

12. Page 6, line 16.

Strike: "43"

Insert: "44"

13. Page 6, line 17.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

14. Page 7, line 11.

Strike: "43"

Insert: "44"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

15. Page 7, line 12.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

16. Page 8, line 8.

Strike: "43"

Insert: "44"

17. Page 8, line 9.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

18. Page 8, line 21.

Strike: "43"

Insert: "44"

19. Page 9, line 1.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

20. Page 11, line 9.

Strike: "43"

Insert: "44"

21. Page 12, line 4.

Strike: "43"

Insert: "44"

22. Page 13, line 1.

Strike: "43"

Insert: "44"

23. Page 13, line 18.

Strike: "43"

Insert: "44"

24. Page 14, line 18.

Strike: "81"

Insert: "85"

25. Page 15, line 15.

Strike: "81"

Insert: "85"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

26. Page 20, line 2.

Strike: "52"

Insert: "53"

27. Page 21, line 6.

Strike: "42(1)"

Insert: "43(1)"

28. Page 21, line 7.

Strike: "43"

Insert: "44"

29. Page 21, line 12.

Strike: "42(1)"

Insert: "43(1)"

Strike: "43"

Insert: "44"

30. Page 24, line 14.

Strike: "81"

Insert: "85"

31. Page 24, line 17.

Strike: "81"

Insert: "85"

32. Page 27, line 16.

Strike: "43"

Insert: "44"

33. Page 34.

Following: line 10

Insert: "**Section 32.** Section 53-4-212, MCA, is amended to read:

"53-4-212. Department to make rules. (1) The department shall make rules and take action as necessary or desirable for the administration of public assistance programs.

(2) ~~The~~ Subject to subsection (3), the department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives, including cooperation with assessments, the number of hours of participation required for each month, specific activities required to address employment barriers, and other terms of performance;

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

(f) eligibility for and terms and conditions of child-care assistance for financial assistance recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) eligibility criteria and participation requirements for nonfinancial assistance recipients;

(h) terms of ineligibility or sanctions against a specified caretaker relative or other family member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual's obligations under the agreement, including the length of the period of ineligibility, if any;

(i) requirements, if any, for participation in the employment and training demonstration project;

(j) eligibility for and terms and conditions of extended medical assistance benefits;

(k) reporting requirements;

(l) sanctions, disqualification, or other penalties for failure or refusal to comply with the rules or requirements of a public assistance program;

(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

(n) individuals who must be included as members of an assistance unit;

(o) categories of aliens who may receive assistance, if any;

(p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

(q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

(r) special eligibility or participation requirements applicable to teenage parents, if any;

(s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued;

(t) any random drug testing or reporting requirements for persons who are required to comply with the conditions provided under 53-4-231(3) and graduated sanctions that may include terms of ineligibility for violations of conditions of supervision or treatment requirements. The department may enter into agreements with the department of corrections regarding testing and reporting on offenders under the supervision of the department of corrections.

(u) approved educational programs, appropriate educational courses of study, employee assessment instruments, and administration of the Montana parents as scholars program provided for in 53-4-209.

(3) The department shall raise the eligibility standard for individuals receiving cash assistance benefits from the federal TANF block grant from at or below 30% of the 2002 federal poverty level to at or below 30% of the 2009 federal poverty level for the period from July 1, 2009, through September 30, 2010. Beginning October 1, 2010, the department shall reduce the eligibility standard to 30% of the 2006 federal poverty level. If the TANF caseload increases to a point that expenditures jeopardize the TANF block grant, the department, after consultation with the legislative finance committee, may lower the eligibility standard as provided in subsection (2)."

Renumber: subsequent sections

34. Page 44, line 18.

Strike: "42"

Insert: "43"

35. Page 45, line 1.

Strike: "43"

Insert: "44"

36. Page 45, line 19.

Strike: "43"

Insert: "44"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

37. Page 48, line 19.

Strike: "43"

Insert: "44"

38. Page 48, line 20.

Strike: "44"

Insert: "45"

Strike: "45"

Insert: "46"

39. Page 63, line 8.

Strike: "81"

Insert: "85"

40. Page 63, lines 17 through 19.

Following: "MUST RECEIVE \$5,000 PLUS" on line 17

Strike: remainder of line 17 through line 19 in their entirety

Insert: "a proportional share of the funds remaining from the \$10 million. The proportional share is calculated by allocating 50% of the remaining funds to each city and town based upon the distribution formula in 15-70-101(2)(c) and 50% of the remaining funds to each city and town based upon the percentage that the population of each city or town bears to the total population of all cities and towns."

41. Page 63, line 20.

Following: "USED FOR"

Insert: ": (a) the following county projects: Beaverhead, county courthouse repair; Big Horn, Little Horn road reconstruction; Blaine, county building improvements; Broadwater, county road chip seal; Carbon, West Fork road expansion; Carter, gravel crushing; Cascade, county building energy performance contract; Chouteau, county road repair and reconstruction; Custer, county road and buildings, including Silo Loop road, Pine Hills improvement, and county building repair and remodel; Daniels, county road gravel screening/crushing; Dawson, county building repair/remodel/construction; Deer Lodge, street light renovation; Fallon, county road and parks shop building; Fergus, Scott Crossing bridge replacement; Flathead, Mennonite Church and Creston roads construction; Gallatin, fairgrounds restroom construction and replacement; Garfield, county building heating/cooling system replacement; Glacier, Glacier County jail/detention center; Golden Valley, fire hall and roads; Granite, Metesch Lane bridge replacement; Hill, Sheppard and Bulhook roads pavement overlay; Jefferson, Boulder south campus sewer replacement; Judith Basin, replace Arrow Creek and Judith River bridge; Lake, South Valley Creek bridge replacement, Skyline bridge repair, and courthouse weatherization; Lewis and Clark, Lewis and Clark County fairgrounds plaza; Liberty, Liberty senior center; Lincoln, Tobacco Valley industrial park infrastructure improvements and Kootenai business park improvements; Madison, Madison County office renovation and bridge improvement projects; McCone, geothermal heat loop courthouse retrofit; Meagher, county building energy efficiency and handicap accessibility updates; Mineral, Mineral County jail and courthouse restoration and repair; Missoula, Big Flat road reconstruction; Musselshell, Goffena bridge replacement; Park, 9th Street bridge replacement; Petroleum, courthouse windows, Dovetail Creek crossing, and Petroleum County road upgrade; Phillips, courthouse parking lot and sidewalk projects; Pondera, Pondera County community and senior center remodel; Powder River, Powder River County fire hall; Powell, energy efficient windows and boiler for county courthouse; Prairie, county fairgrounds grandstand replacement and Terry park facilities renovation; Ravalli, Ambrose Creek road pavement preservation; Richland, Spring Lake road reconstruction; Roosevelt, energy efficient courthouse windows project; Rosebud, Ingomar water and sewer project and Forsyth library elevator project; Sanders, high bridge reconstruction; Sheridan, county road gravel and engineering, county road gravel crushing, Plentywood bypass route; Silver Bow, county road repair and maintenance; Stillwater, county courthouse and bridge; Sweet Grass, Pioneer medical center renovation; Teton, county nursing home

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

and county road gravel; Toole, energy efficient lighting for Toole County hospital; Treasure, county building renovations; Valley, Valley County detention center addition; Wheatland, county road shop and Harlowtown fire hall; Wibaux, county fairgrounds exhibit building; Yellowstone, Clapper Flat and Vandaveer roads and courthouse remodel; and

(b) the following city and town projects: Alberton, street repairs and paving; Anaconda-Deer Lodge, street light renovation; Bainville, Simard Park improvements -- sprinkler systems and sidewalks; Baker, storm drain installation on South Montana 7 and Secondary 322; Bearcreek, town hall renovation and repairs; Belgrade, street intersection reconstruction and sidewalk extension; Belt, replace concrete water storage tank; Big Sandy, sewer main replacement and resurface Johannes Avenue; Big Timber, Anderson Street asphalt overlay project; Billings, reconstruction of Alkali Creek Road; Boulder, water system treatment project; Bozeman, water system treatment project, water reclamation facility -- water treatment plant design, recreation facility improvements, sidewalks and restroom upgrades in parks, and debris removal; Bridger, street and sidewalk repairs; Broadus, addition to city hall for police department and sewer lagoon repairs; Broadview, general repairs and maintenance; Brockton, wastewater system repairs and street and alley repairs; Browning, new fire hall; Butte-Silver Bow, road repairs and maintenance; Cascade, one block sewer main replacement; Chester, chip seal town streets; Chinook, city hall repair and improvements and paint armory building; Choteau, city hall-fire station remodel and replace unit heaters in Pavilion building;

Circle, purchase street patcher equipment and sewer treatment plant; Clyde Park, construction of Lathrop Street; Colstrip, Orchard lift station replacement; Columbia Falls, street construction and improvements; Columbus, replace curb, gutter, and sidewalk on Pike Avenue; Conrad, replace hydrants and valves and overlay Dakota Street; Culbertson, architecture design of new fire hall; Cut Bank, final engineering and design work for Railroad Street; Darby, water system improvement project; Deer Lodge, phase 1 sewer rehabilitation collection system; Denton, water-sewer upgrades, building repairs, and street repairs; Dillon, Glendale street project; Dodson, street repairs; Drummond, street repairs and park maintenance; Dutton, city park improvements; East Helena, renovate city hall; Ekalaka, bridge and street repair; Ennis, town hall expansion and remodel project; Eureka, repair main arterial road; Fairfield, design and erect new fire hall, televise sewer lines, and replace hydrants; Fairview, park bathrooms renovation; Flaxville, water storage tank repairs; Forsyth, water storage tank and water works repairs; Fort Benton, chip seal city streets, U.S. highway 87 repairs, and airport runway improvements; Fort Peck, replace aging fire hydrants; Froid, water storage reservoir replacement; Fromberg, street and sidewalk repairs; Geraldine, main sewer line extension; Glasgow, rehabilitate southside lift station; Glendive, street reconstruction; Grass Range, water, sewer, and street repairs; Great Falls, West Bank street and right-of-way improvement and civic center roof repair; Hamilton, Tenth street reconstruction; Hardin, new fire hall; Harlem, city hall renovation and weatherization and street maintenance; Harlowton, replace sidewalks and install handicapped curbs; Havre, new lift station and recoat concrete water tank; Helena, Centennial Park trail system construction; Hingham, sewer project, street and sidewalk repairs, and fire hydrants; Hobson, extend water to boulevard on Main Street; Hot Springs, remodel fire hall and repair streets; Hysham, overlay town streets; Ismay, general repairs and maintenance; Joliet, sewer and water improvements; Jordan, improve existing streets; Judith Gap, Fourth Avenue street improvements; Kalispell, street projects; Kevin, drainage, culvert, and road repairs; Laurel, open ditch mitigation near middle school; Lavina, install new water system; Lewistown, chip seal streets; Libby, sewer main extension to Cabinet Heights; Lima, regravels streets and park shelter; Livingston, safety and building repairs to Sacajawea Park and repairs to sidewalks and streets; Lodge Grass, sewer lagoon; Malta, water and sewer line repairs and maintenance and street paving and repairs; Manhattan, sidewalk extensions, repairs, and maintenance; Medicine Lake, sewer lagoon maintenance, water tower, and waterworks repairs; Melstone, install fire hydrants, water and sewer installation to community center, and sidewalks, curbs, and gutters; Miles City, stormwater system sediment removal and debris removal; Missoula, ADA sidewalk ramps and North Higgins streetscape; Moore, street repairs and capital improvements; Nashua, sewer and water main replacements; Neihart, streets and capital improvements; Opheim, water system and general repairs; Outlook, connect water system to new well; Philipsburg, replace water and sewer lines; Pinesdale, capital improvements and repairs; Plains, city hall renovations including ADA bathrooms and furnace and air conditioning; Plentywood, engineering study of wastewater treatment system, replace sidewalk at city hall and add gutter system, and chip seal streets; Plevna, culvert and drainage improvements and chip seal streets; Polson, Riverside water main replacement; Poplar, street repairs after water line installation; Red Lodge, roof repairs on city hall and police station; Rexford, community

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

center siding and repairs; Richey, road repairs and maintenance; Ronan, repair and overlay Third Avenue Northwest; Roundup, curbs, gutters, and sidewalks on Second Avenue East; Ryegate, city park improvements; Saco, street repairs and maintenance; Saint Ignatius, street paving and pedestrian path and other park repairs; Scobey, weatherize city hall; Shelby, street repairs; Sheridan, street repairs and maintenance; Sidney, Twenty-Second Avenue Northwest reconstruction; Stanford, street intersection improvements and replacements; Stevensville, repair and replace roof on town hall complex building; Sunburst, resurface streets, ADA curbs and gutters, and other street repair; Superior, water construction phase II, street repairs, and renovate park buildings; Terry, park improvements; Thompson Falls, street repairs and replace water meters with radio read meters; Three Forks, pave streets and equip parks and recreation facilities; Townsend, Broadway sidewalk replacement; Troy, city hall restoration; Twin Bridges, public walking path connecting parks; Valier, install water tank, new water meters, and water lines and trunks; Virginia City, remodel and relocate city hall; Walkerville, street improvements; West Yellowstone, wastewater improvements; Westby, resurface streets; White Sulphur Springs, patch and repair city streets; Whitefish, new emergency services building; Whitehall, new ambulance building, wastewater improvements, and debris removal; Wibaux, remodel park bathroom as handicapped accessible; Winifred, drainage projects; Winnett, street drainage improvements; Wolf Point, gate valve and hydrant replacement; or

(c)"

42. Page 64, line 1.

Strike: "(A)"

Insert: "(i)"

Renumber: subsequent subsections

43. Page 64.

Following: line 8

Insert: "(3) The governing body of a county, city, or town may choose to propose to the department of commerce an alternate project to those listed in subsections (2)(a) and (2)(b) based on the criteria in subsection (2)(c). If the alternate project meets the criteria in subsection (2)(c), the department shall approve the project."

Renumber: subsequent subsection

44. Page 64.

Following: line 11

Insert: "(5) A recipient of funds under this section must expend the funds by September 30, 2010. Unexpended funds must revert to the state and be deposited in the state general fund. The department of commerce shall disburse the funds to recipients as quickly as possible."

45. Page 65, lines 2 and 3.

Following: "(5)" on line 2

Strike: remainder of line 2 through "PROGRAM." on line 3

Following: "START"

Insert: "energy program"

46. Page 65, line 5.

Strike: "81"

Insert: "85"

47. Page 66, line 8.

Strike: "MORTGAGE LOAN ASSISTANCE"

Insert: "Welcome home loan"

48. Page 66, line 14.

Strike: "59"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Insert: "60"

49. Page 66, line 16.

Insert: "NEW SECTION. **Section 62. Fund transfer.** There is transferred \$300,000 from the state general fund to the senior citizen and persons with disabilities transportation services account."

"NEW SECTION. Section 63. Allocation and distribution of increased state support for schools. The superintendent of public instruction shall allocate and distribute the funds appropriated in [section 85] for Increase State Support for Schools With Education Stabilization Funds as follows:

(1) for fiscal year 2010:

(a) recalculate the basic entitlement and per-ANB entitlement by multiplying the basic entitlement and per-ANB entitlement for fiscal year 2010 in 20-9-306 by 1.02;

(b) calculate the BASE budget, maximum general fund budget, direct state aid, and guaranteed tax base aid for each school district using the recalculated basic and per-ANB entitlements; and

(c) distribute K-12 BASE aid to school districts in accordance with the payment schedule in 20-9-344 from the appropriations in House Bill No. 2 and [this act]; and

(2) for fiscal year 2011:

(a) recalculate the basic entitlement and per-ANB entitlement by multiplying the basic entitlement and per-ANB entitlement for fiscal year 2011 in 20-9-306 by 1.02;

(b) calculate the BASE budget, maximum general fund budget, direct state aid, and guaranteed tax base aid for each school district using the recalculated basic and per-ANB entitlements; and

(c) distribute K-12 BASE aid to school districts in accordance with the payment schedule in 20-9-344 from the appropriations in House Bill No. 2 and [this act].

Renumber: subsequent sections

50. Page 70, lines 5 and 6.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

51. Page 70, line 8.

Strike: subsection (i) in its entirety

Renumber: subsequent subsections

52. Page 70, line 9.

Strike: "tribal"

Insert: "Indian country"

53. Page 70.

Following: line 9

Insert: "(ii) high-performance computing in the amount of \$2,000,000, then the general fund appropriation for that purpose in House Bill No. 2 is void;"

Renumber: subsequent subsections

54. Page 70, line 11.

Following: "(iv) the"

Insert: "Montana"

55. Page 70, line 17.

Strike: "THAT PURPOSE"

Insert: "BASE aid"

56. Page 70, line 18.

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Strike: "\$12,763,569"

Insert: "\$14,613,477"

Strike: "\$13,216,482"

Insert: "\$25,779,699"

Following: "2011;"

Strike: "AND"

57. Page 70, line 20.

Strike: "\$31,605,482"

Insert: "\$29,762,223"

Strike: "\$31,605,482"

Insert: "\$29,762,224"

Following: "FY 2011"

Insert: "; and

(d) to the office of the commissioner of higher education for Replace 6-Mill Levy Revenue Shortfall With Federal General Stabilization Funds, then the state special revenue fund appropriation in House Bill No. 2 is reduced by \$1,447,296 in fiscal year 2010 and \$1,046,625 in fiscal year 2011"

58. Page 71, line 1.

Strike: "the amount of the difference between the amount specified in subsection (1) and"

59. Page 71, line 2.

Strike: "81"

Insert: "85"

60. Page 71, line 8.

Following: "TOTAL"

Strike: "ALLOCATIONS"

Insert: "appropriations"

61. Page 71, line 10.

Strike: "\$20"

Insert: "\$17"

62. Page 71, line 21 through page 72, line 1.

Strike: "the amount" on page 71, line 21 through "and" on page 72, line 1

Strike: "81"

Insert: "85"

63. Page 72, lines 2 and 3.

Strike: subsection (4) in its entirety

64. Page 72, line 6.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

65. Page 72, line 9.

Strike: "\$2.5"

Insert: "\$3.5"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

66. Page 72, line 15.

Following: "amount of"

Strike: "a fund transfer or"

67. Page 72, lines 16 and 17.

Following: "corresponding" on line 16

Strike: "transfer or"

Strike: "of the difference" on page 72, line 16 through "transferred or" on page 72, line 17

Strike: "81"

Insert: "85"

68. Page 73, line 5.

Strike: "81"

Insert: "85"

69. Page 73, line 12.

Strike: "81"

Insert: "85"

70. Page 73, line 19.

Strike: "81"

Insert: "85"

71. Page 74, line 2.

Strike: "33"

Insert: "34"

72. Page 74, line 3.

Strike: "33"

Insert: "34"

73. Page 74, line 4.

Strike: "52" in both places

Insert: "53" in both places

74. Page 74, line 5.

Strike: "54"

Insert: "55"

Strike: "55"

Insert: "56"

75. Page 74, line 6.

Strike: "54"

Insert: "55"

Strike: "55"

Insert: "56"

76. Page 74, line 7.

Strike: "42"

Insert: "43"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Strike: "43"
Insert: "44"

77. Page 74, line 8.
Strike: "42"
Insert: "43"
Strike: "43"
Insert: "44"

78. Page 74, line 9.
Strike: "44"
Insert: "45"
Strike: "45"
Insert: "46"

79. Page 74, line 10.
Strike: "44"
Insert: "45"
Strike: "45"
Insert: "46"

80. Page 74, line 11.
Strike: "50" in both places
Insert: "51" in both places
Strike: "51" in both places
Insert: "52" in both places

81. Page 74, line 20.
Strike: "35"
Insert: "36"
Strike: "37"
Insert: "38"

82. Page 75, lines 2 and 3.
Following: "27" on line 2
Strike: remainder of line 2 through "60" on line 3
Insert: "31 through 33, 35 through 42, 57, 58, 60, and 61"

83. Page 75, line 5.
Strike: "81"
Insert: "85"

84. Page 75, line 4.
Insert: "NEW SECTION. **Section 83. Voided appropriation -- use -- appropriation.** If a general fund appropriation contained in [section 85] is voided or vetoed, then the amount of the voided or vetoed general fund appropriation is appropriated to the department of commerce. The department shall use 25% of the appropriation for distribution to counties pursuant to [section 57(1)(a)], 25% of the appropriation for distribution to cities and towns pursuant to [section 57(1)(b)], 25% of the appropriation for distribution to tribal governments pursuant to [section 57(1)], and 25% for distribution to school districts pursuant to [section 57(4)]."
Renumber: subsequent sections

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

85. Page 75, line 9.

Following: "2011."

Insert: "The office of budget and program planning is authorized to transfer up to \$2 million of the appropriations, authority, or both in this section between the general fund and the federal special revenue fund for the purpose of making adjustments to maintain necessary maintenance of effort and other requirements of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the use of both the state general fund and the federal state fiscal stabilization funds."

86. Page A-1.

Following: line 1

Insert: "LEGISLATIVE BRANCH (1104)

1. Legislative Committees and Activities (21)

117,084 121,520" [General fund FY 10 and FY 11]

"Total 117,084 121,520" [General fund FY 10 and FY 11]

If Senate Bill No. 100 is not passed and approved, the general fund appropriation in the amount of \$117,084 in fiscal year 2010 and in the amount of \$121,520 in fiscal year 2011 for Legislative Committees and Activities is void."

87. Page A-1, line 13 through page A-2, line 8.

Strike: Page A-1, line 13 through page A-2, line 8 in their entirety

88. Page A-2, line 11.

Following: "a."

Insert: "Montana"

89. Page A-2, line 16.

Strike: "Tribal"

Insert: "Indian Country"

90. Page A-3.

Following: line 15

Insert: "h. High-Performance Computing

1,000,000 1,000,000" [general fund FY 10 and FY 11]

"i. New Worker Training Program 655,698 655,698"
[general fund in FY 2010 and FY 2011]

91. Page A-5, line 4.

Strike: "23,000,000 22,000,000" [General fund & State special revenue FY 10]

Insert: "25,000,000 20,000,000" [General fund & State special revenue FY 10]

92. Page A-5, lines 5 through 7.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

93. Page A-5, line 12.

Strike: "1,500,000 1,500,000" [general fund FY 10 and FY 11]

Insert: "2,000,000 2,000,000" [general fund FY 10 and FY 11]

94. Page A-6, line 11.

Strike: "3,536,800 11,497,200" [state special revenue FY 10 and FY 11]

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Insert: "34,000" [state special revenue FY 11]

95. Page A-8.

Following: line 3

Insert: "c. Quick Start Energy Grants 14,950,000" [state special revenue FY 10]

96. Page A-9.

Strike: lines 2 and 3 in their entirety

Insert: "The line item for New Worker Training is to provide training funds for businesses to train and educate both new and existing employees, the purpose of which is the retention and creation of high-wage and high-skilled jobs that will increase the earning potential and employment opportunities for Montana employees and enhance the state's economy. The line item for New Worker Training is intended to be implemented using a framework similar to that established under the Primary Sector Business Workforce Training Act provided for in Title 39, chapter 11, except that the New Worker Training appropriation line item is to be used to train and educate both new and existing employees.

The line item and general fund appropriation in the amount of \$1,311,396 for New Worker Training is contingent upon passage and approval of Senate Bill No. 100. If Senate Bill No. 100 is not passed and approved, the appropriation for New Worker Training is void.

If Senate Bill No. 100 is not passed and approved, there is an appropriation to the Community Development Division in the amount of \$4.5 million general fund for fiscal year 2010 for the provision of grants by the coal board established in 2-15-1821."

97. Page A-9, line 11.

Strike: "56"

Insert: "57"

Strike: "57"

Insert: "58"

98. Page A-10.

Following: line 9

Insert: "The amount of \$1 million of the general fund appropriation for Historic Preservation Competitive Grants is contingent upon passage and approval of Senate Bill No. 100."

99. Page B-4, line 8.

Strike: "1,000,000 1,000,000" [General fund FY 10 & FY 11]

Insert: "1,000,000 1,000,000" [Federal funds FY 10 & FY 11]

100. Page B-4.

Following: line 10

Insert: "d. HB 173 -- Implementing National Public Health Standards (Restricted)
200,000 200,000" [general fund FY10 FY11]

101. Page B-4, line 13.

Strike: "375,000 375,000" [general fund FY10 and FY11]

Insert: "357,000 357,000" [general fund FY10 and FY11]

102. Page B-6, line 12.

Strike: "1,500,000 1,500,000" [General fund FY 10 and FY 11]

Insert: "58,919 58,918 " [General fund FY 10 and FY 11]

"1,441,081 1,441,082" [Federal funds FY 10 and FY 11]

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

103. Page B-6, line 16.

Following: "RESTRICTED"

Insert: "/Biennial"

104. Page B-7.

Strike: line 2

Insert: "25,000" [general fund FY 10]

"b. Implement HB 130 (Biennial/Restricted)

475,000" [General fund FY 10]

105. Page B-8.

Following: line 6

Insert: "HB 173 -- Implementing National Public Health Standards may be used only to make grants to local public health agencies. The line item and general fund appropriation in the amount of \$400,000 over the biennium for HB 173 -- Implementing National Public Health Standards is contingent upon passage and approval of Senate Bill No. 100. If Senate Bill No. 100 is not passed and approved, the appropriation for HB 173 -- Implementing National Public Health Standards is void."

106. Page B-9, line 15.

Strike: "AND"

Insert: "or"

107. Page B-9, following line 15.

Insert: "Implement HB 130 is contingent upon passage and approval of House Bill No. 130. If House Bill No. 130 is not passed and approved, Implement HB 130 must be used for matching grants for mental health crisis centers."

108. Page C-5, line 12.

Strike: "2,500,000 2,500,000" [federal special revenue FY10

and FY11]

Insert: "4,250,000 4,250,000" [federal special revenue FY10

and FY11]

109. Page D-1, line 6.

Strike: "125,000 125,000" [general fund FY 10 and FY 11]

Insert: "250,000 250,000" [general fund FY 10 and FY 11]

110. Page D-1.

Following: line 10

Insert: "The amount of \$250,000 of the general fund appropriation for Self-Help Law Program is contingent upon passage and approval of Senate Bill No. 100."

111. Page D-4, line 2.

Strike: "73,225 73,620" [General fund FY 10 & FY 11]

Insert: "73,225 73,620" [Federal funds FY 10 & FY 11]

112. Page D-4, line 5.

Strike: "997,547 1,002,781" [General fund FY 10 & FY 11]

Insert: "997,547 1,002,781" [Federal funds FY 10 & FY 11]

113. Page D-4, line 8.

Strike: "282,040 283,346" [General fund FY 10 & FY 11]

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Insert: "282,040 283,346" [Federal funds FY 10 & FY 11]

114. Page E-1.

Following: line 14

Insert: "e. Montana Learning Center (Restricted)
50,000 [general fund FY10]"

115. Page E-3, line 7.

Strike: "12,763,509 13,216,482" [federal special revenue FY10 FY11]

Insert: "14,613,477 25,779,699" [federal special revenue FY10 FY11]

116. Page E-3, line 9.

Strike: "10,724,262 21,713,034" [federal special revenue FY10 FY11]

Insert: "10,717,552 10,993,075" [federal special revenue FY10 FY11]

117. Page E-4.

Following: line 3

Insert: "Montana Learning Center funding may be used only for deferred maintenance on facilities or for making energy efficiency improvements at the Montana learning center."

118. Page E-4, line 12.

Strike: "16,507" [general fund FY10]

Insert: "34,507 18,000" [general fund FY10 and FY11]

119. Page E-7, line 4.

Strike: "31,605,482 31,605,482" [federal special revenue FY10 FY11]

Insert: "29,762,223 29,762,224" [federal special revenue FY10 FY11]

120. Page E-9, line 10.

Following: "ASSISTANCE"

Strike: "WILL"

Insert: "must"

121. Page E-9, line 11.

Following: "FOLLOWS:"

Strike: remainder of line 11

Insert: "\$400,000 to Flathead Valley community college, \$700,000 to Miles community college, and \$700,000 to Dawson community college."

122. Page E-9.

Strike: lines 14 and 15 in their entirety

123. Page F-1, line 4.

Following: "Program"

Insert: "Additional"

Following: "TRANSFER"

Strike: "Allocation"

124. Page F-2, line 4.

Following: "TRANSFER"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Insert: "and"

125. Page F-2, line 9.

Following: "TRANSFER"

Strike: "Allocation"

126. Page F-3, line 8.

Strike: "1,250,000 1,250,000" [general fund FY 10 and FY 11]

Insert: "1,750,000 1,750,000" [general fund FY 10 and FY 11]

127. Page F-3, line 9.

Following: "Montana"

Insert: "(Department of Administration)"

128. Page F-4, lines 2 through 4.

Strike: line 2 through line 4 in their entirety

129. Page F-4, line 13.

Strike: "21,500,000 21,500,000" [General fund FY 10 and FY 11]

Insert: "35,034,000" [General fund FY 10]

130. Page F-6.

Following: line 8

Insert: "The amount of \$1 million of the general fund appropriation for Enterprise System Services Center Equipment is contingent upon passage and approval of Senate Bill No. 100."

For the House:

Sesso, Vice Chair

Hiner

McNutt

Morgan

For the Senate:

Esp, Chair

Keane

J. Peterson

FREE CONFERENCE COMMITTEE

on House Bill 676

Report No. 1 April 27, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 676** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 676** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 11 through line 15.

Following: "ALTERNATIVES;" on line 11

Strike: remainder of line 11 through "ALL;" on line 15

2. Title, page 1, lines 16 and 17.

Strike: "MODIFYING" on line 16 through "ACCOUNT;" on line 17

Strike: "A 1 PERCENT"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Insert: "AN"

3. Title, page 1, line 22 through line 23.

Following: "PLAN;" on line 22

Strike: remainder of line 22 through "CONTRACEPTION;" on line 23

Insert: "REQUIRING NOTICE TO ENROLLEES OF RESTRICTIONS ON ACCESS TO HEALTH CARE PROVIDERS; PROVIDING THAT CONTRACTS TO IMPLEMENT THE CHILDREN'S HEALTH INSURANCE PROGRAM MAY NOT RESTRICT ACCESS TO HEALTH CARE PROVIDERS;"

4. Title, page 2, line 1 through line 2.

Following: "TAXES;" on line 1

Strike: remainder of line 1 through "PROGRAM;" on line 2

Insert: "PROVIDING CONDITIONS FOR THE SELECTION OF THE VENDOR FOR THE VEHICLE INSURANCE VERIFICATION SYSTEM;"

5. Title, page 2, line 4.

Strike: "53-4-1004,"

Following: "53-4-1005,"

Insert: "53-4-1007,"

6. Title, page 2, line 5.

Strike: "53-4-1115,"

7. Title, page 2, line 7.

Strike: "A"

Strike: "DATE"

Insert: "DATES"

8. Page 2, lines 11 through 23.

Strike: section 1 in its entirety

Renumber: subsequent sections

9. Page 9, lines 11 and 12.

Following: "Act" on line 11

Strike: remainder of line 11 through "AUTHORITY" on line 12

10. Page 10, lines 24 and 25.

Following: "Act" on line 24

Strike: remainder of line 24 through "AUTHORITY" on line 25

11. Page 22, lines 7 through 13.

Strike: section 15 in its entirety

12. Page 23, line 13.

Strike: "\$248,546"

Insert: "\$253,468"

13. Page 23, line 17.

Strike: "\$22,362"

Insert: "\$22,805"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

14. Page 23, line 22.

Strike: "\$22,362"

Insert: "\$22,805"

15. Page 23, line 26.

Strike: "\$63,331"

Insert: "\$64,585"

16. Page 24, line 20.

Strike: "\$6,158"

Insert: "\$6,280"

17. Page 24, line 25.

Strike: "\$4,811"

Insert: "\$4,906"

18. Page 24, line 30.

Strike: "\$4,811"

Insert: "\$4,906"

19. Page 25, line 4.

Strike: "\$6,158"

Insert: "\$6,280"

20. Page 26, line 22.

Strike: "The"

Insert: "Except as provided in subsection (3)(b), the"

21. Page 26.

Following: line 26

Insert: "(b) The commissioner shall deposit 16.67% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115."

Renumber: subsequent subsection

22. Page 30, line 13 through page 31, line 2.

Strike: section 20 in its entirety

Renumber: subsequent sections

23. Page 31, line 22.

Following: "~~program~~:"

Insert: "(3) The department is specifically prohibited from providing payment for birth control contraceptives under this program.

(4) The department shall notify enrollees of any restrictions on access to health care providers, of any restrictions on the availability of services by out-of-state providers, and of the methodology for an out-of-state provider to be an eligible provider."

24. Page 31.

Following: line 23

Insert: "**Section 19.** Section 53-4-1007, MCA, is amended to read:

"53-4-1007. (Temporary) Department may contract for services. (1) The department of public health and

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

human services may administer the program directly or contract with insurance companies or other entities to provide services for a set monthly or yearly fee based on the number of participants in the program and the types of services provided or based on a fee for service as established by the department.

(2) The department of public health and human services may contract for a health care service based on a fee for service when the department does not contract for a health care service through an insurance plan, a health maintenance organization, or a managed care plan. A contract entered into or renewed on or after [the effective date of this act] may not limit enrollee access to providers who are willing to provide services at the rates provided for under the program. In operating the program and providing health services, the department may:

(a) pay providers on a fee-for-service basis in a self-funded program and contract with an insurance company, third-party administrator, or other entity to provide administrative services, including but not limited to processing and payment of claims with program funds;

(b) purchase health coverage for eligible children from an insurance company or other entity through premiums, capitated payments, or other appropriate methods;

(c) purchase health coverage as provided in subsection (2)(b) for some types of health services and contract directly with providers for other types of health services on a fee-for-service basis; or

(d) pay providers on a fee-for-service basis and directly provide administrative services in a self-funded program.

(3) If the department of public health and human services contracts with an insurance company or other entity to administer the program as provided in subsection (2)(b) or (2)(c), not more than 12% of the contract payment may be used for administrative expenses, including:

(a) direct and indirect expenses as specified in 33-22-1514;

(b) risk charges; and

(c) any applicable assessments, fees, and taxes.

(4) If the department operates the program by providing administrative services under subsection (2)(a), (2)(c), or (2)(d), the department's administrative expense may not exceed the lesser of 10% of total program expenses or the applicable federal limitation, excluding costs for federally required audits.

(5) (a) An insurance company or other entity that contracts with the department for a fully insured contract as provided in subsection (2)(b) shall calculate the surplus account balance at the end of each contract year and may retain an amount equal to 50% of the risk charge allowed under the contract. The remainder of the surplus balance must be deposited in the state special revenue account provided for in 53-4-1012.

(b) For the purposes of this subsection (5):

(i) "risk charge" means the percentage of the administrative expense allowed in the contract for assuming the risk;

(ii) "surplus account balance" means funds that remain after all claims and all administrative expenses have been paid for a claim period. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999; sec. 7, Ch. 565, L. 2005; sec. 5, Ch. 129, L. 2007.)"

Renumber: subsequent sections

25. Page 32, lines 7 through 25.

Strike: section 23 in its entirety

Renumber: subsequent sections

26. Page 38.

Following: line 16

Insert: "NEW SECTION. Section 29. Vehicle insurance verification system -- vendor requirement. In order to reduce state risk, a vendor who successfully bids on the vehicle insurance verification system project must have installed in at least two other states a substantially similar system, which must be in production."

Renumber: subsequent sections

27. Page 38, lines 21 through 26.

Following: "instruction." on line 21

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Strike: remainder of line 21 through "(3)" on line 26

Strike: "28"

Insert: "25"

28. Page 38, line 27.

Strike: "28"

Insert: "25"

29. Page 38.

Following: line 28

Insert: "COORDINATION SECTION. Section 32. Coordination instruction. If House Bill No. 152 and [this act] are both passed and approved, then [section 22] of House Bill No. 152 must be amended as follows:

"NEW SECTION. Section 22. Applicability. [Section 18] applies to rental payments beginning January 1, ~~2011~~ 2012.""

Renumber: subsequent sections

30. Page 39, line 1.

Strike: "8"

Insert: "7"

31. Page 39, line 3.

Strike: "16"

Insert: "14"

32. Page 39, line 6.

Following: "Termination."

Insert: "(1)"

Strike: "10"

Insert: "9"

33. Page 39, line 7.

Strike: "12"

Insert: "11"

34. Page 39.

Following: line 7

Insert: "(2) [Section 15] terminates June 30, 2013."

For the House:

Sesso, Vice Chair

Hawk

Hiner

Jones

For the Senate:

Bales, Chair

Lewis

Schmidt

April 27, 2009

The Honorable Robert Story, Jr.

President of the Senate

State Capitol

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Helena, MT 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 476, **“AN ACT REVISING THE CRIME OF THEFT; RAISING THE MONETARY THRESHOLD FOR FELONY THEFT AND REVISING PENALTIES; AND AMENDING SECTIONS 45-2-101, 45-6-301, 45-6-309, 45-6-311, AND 45-6-313, MCA.”**

Senate Bill 476 increases from \$1,000 to \$2,500 the threshold for classifying certain property crimes as felony rather than misdemeanor. My primary concern with the bill lies in the fact that the increase in the threshold applies to some but not all property crimes. Specifically, it applies to the crimes of theft, failure to return rented or leased personal property, unlawful use of a computer, and medicaid fraud. In contrast, it does *not* apply to the crimes of criminal mischief, issuing a bad check, identity theft, unauthorized acquisition of food stamps, and other property crimes.

It does not make sense to me that the crime of stealing \$1500, or even \$2,499, from a corner grocery store would be classified as a misdemeanor, while the crime of writing a bad check for \$1500 to the same grocery store would be classified as a felony. Similarly, it does not make sense to me that the threshold for the crime of felony medicaid fraud would be raised to \$2,500 (a crime that is typically committed by doctors), while the crime of unauthorized acquisition of food stamps valued in excess of \$1,000 would constitute a felony (typically committed by poor people).

My amendments to Senate Bill 476, therefore, change the threshold for the classification of property crimes as misdemeanor, as opposed to felony, to all property crimes, not only the four listed in the bill that was presented to me. Additionally, a consequence of increasing the threshold for what constitutes a felony will be additional work in the justice courts. Therefore, I lowered the threshold that was contained in the bill presented to me from \$2,500 to \$1,500, so as not to overburden the justice courts with these changes. These changes should also assist by making the payment of restitution within the six month period, by those committing misdemeanors, a more realistic prospect.

Finally, consistent with my proposed amendments, I note that the last time the legislature amended the threshold determining whether the crime of theft is a misdemeanor or is a felony was 1999, and at that time, in addition to amending the threshold as to the crime of theft, the legislature also amended the threshold for the other property crimes covered by my amendment. I also note that in 1999, when the legislature amended the threshold distinguishing a misdemeanor from a felony property crime, the amendment was to increase the threshold, with respect to all crimes covered by the legislation, from \$500 to \$1,000. As in 1999, my amendment would entail a \$500 increase in the threshold, from \$1,000 to \$1,500.

I have discussed my amendments with my friend, Senator Shockley, the sponsor of Senate Bill 476, who indicates his support.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

Amendments to Senate Bill No. 476

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Reference Copy

By Request of the Governor
For the Senate Committee of the Whole

Prepared by Susan Byorth Fox
April 27, 2009

1. Title, line 5.

Following: "THEFT"

Insert: "AND OTHER OFFENSES AGAINST PROPERTY"

2. Title, line 6.

Following: "THEFT"

Insert: "AND OTHER OFFENSES AGAINST PROPERTY"

3. Title, line 7.

Following: "45-2-101," on line 6

Insert: "45-6-101, 45-6-103, 45-6-104,"

Following: "45-6-311," on line 7

Strike: "AND"

Insert: "45-6-312,"

Following: "45-6-313,"

Insert: "45-6-316, 45-6-317, 45-6-325, 45-6-332, 45-6-341, AND 45-7-210,"

4. Page 10, line 12.

Strike: "\$2,500"

Insert: "\$1,500"

5. Page 10, line 13.

Strike: "\$2,500"

Insert: "\$1,500"

6. Page 10, line 22.

Following: line 21

Insert: "Section 2. Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of ~~\$1,000~~ \$1,500, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss."

{Internal References to 45-6-101:

*13-35-206 x 45-8-405 x 85-7-1924 x 87-1-504x
87-1-505 x}*"

Insert: "Section 3. Section 45-6-103, MCA, is amended to read:

"45-6-103. Arson. (1) A person commits the offense of arson when, by means of fire or explosives, the person knowingly or purposely:

(a) damages or destroys a structure, vehicle, personal property (other than a vehicle) that exceeds ~~\$1,000~~ \$1,500 in value, crop, pasture, forest, or other real property that is property of another without consent;

(b) damages or destroys a structure, vehicle, crop, pasture, forest, or other property that the person owns or has a possessory interest in, with the purpose of obtaining a pecuniary or other gain through fraud or deception; or

(c) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion.

(2) A person convicted of the offense of arson shall be imprisoned in the state prison for a term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both."

{Internal References to 45-6-103:

*40-15-102 x 41-5-206 x 45-8-405 x 46-16-226x
46-23-502 x}*"

Insert: "Section 4. Section 45-6-104, MCA, is amended to read:

"45-6-104. Desecration of capitol, place of worship, cemetery, or public memorial. (1) In this section, "capitol" means the Montana state capitol building and any permanent monuments on the capitol grounds.

(2) A person commits the offense of desecration if the person purposely:

(a) defiles or defaces the capitol or a place of worship, cemetery, or public memorial;

(b) places on or attaches to the capitol or a place of worship, cemetery, or public memorial any mark, design, or material not properly a part of the capitol, place of worship, cemetery, or public memorial; or

(c) injures, damages, or destroys any portion of the capitol or of a place of worship, cemetery, or public memorial.

(3) A person convicted of the offense of desecration shall be:

(a) incarcerated for any term not to exceed 6 months or be fined an amount not to exceed \$500, or both, if the damage does not exceed ~~\$1,000~~ \$1,500; or

(b) imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both, if there is ~~\$1,000~~ \$1,500 or more of damage.

(4) With regard to the capitol, this section does not apply to displays or actions authorized by the department of administration."

{Internal References to 45-6-104: None.x}"

Renumber: subsequent sections

7. Page 12, line 9.

Strike: the first "\$2,500"

Insert: "\$1,500"

Strike: the second "\$2,500"

Insert: "\$1,500"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

8. Page 12, line 11.

Strike: "\$2,500"

Insert: "\$1,500"

9. Page 12, line 12.

Strike: "\$2,500"

Insert: "\$1,500"

10. Page 12, line 15.

Strike: "\$2,500"

Insert: "\$1,500"

11. Page 13, line 9.

Strike: the first "\$2,500"

Insert: "\$1,500"

Strike: the second "\$2,500"

Insert: "\$1,500"

12. Page 13, line 11.

Strike: "\$2,500"

Insert: "\$1,500"

13. Page 13, line 25.

Strike: the first "\$2,500"

Insert: "\$1,500"

Strike: the second "\$2,500"

Insert: "\$1,500"

14. Page 13, line 27.

Strike: "\$2,500"

Insert: "\$1,500"

15. Page 14, line 1.

Following: page 13, line 30

Insert: "**Section 8.** Section 45-6-312, MCA, is amended to read:

"45-6-312. Unauthorized acquisition or transfer of food stamps. (1) A person commits the offense of unauthorized acquisition or transfer of food stamps if the person knowingly:

(a) acquires, purchases, possesses, or uses any food stamp or coupon that the person is not entitled to; or

(b) transfers, sells, trades, gives, or otherwise disposes of any food stamp or coupon to another person not entitled to receive or use it.

(2) A person convicted of an offense under this section shall be fined not more than ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for not more than 6 months, or both. A person convicted of an offense under this section, which offense is part of a common scheme or in which the value of the food stamps exceeds ~~\$1,000~~ \$1,500, shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 10 years, or both.

(3) As used in this section, "food stamp or coupon" means any stamp, coupon, or type of certification provided for the purchase of eligible food pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2011 through 2029, or any similar public assistance program."

{Internal References to 45-6-312: None.x}"

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

Renumber: subsequent sections

16. Page 14, line 26.

Strike: the first "\$2,500"

Insert: "\$1,500"

Strike: the second "\$2,500"

Insert: "\$1,500"

17. Page 14, line 28.

Strike: "\$2,500"

Insert: "\$1,500"

18. Page 14, line 29.

Strike: "\$2,500"

Insert: "\$1,500"

19. Page 15, line 2.

Strike: "\$2,500"

Insert: "\$1,500"

20. Page 15, line 22.

Following: line 21

Insert: "**Section 10.** Section 45-6-316, MCA, is amended to read:

"45-6-316. Issuing a bad check. (1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.

(2) If the offender has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that the offender knew that it would not be paid by the depository.

(3) A person convicted of issuing a bad check shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender has engaged in issuing bad checks that are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both."

{Internal References to 45-6-316:

27-1-717 x 44-1-1103 x}"

Insert: "**Section 11.** Section 45-6-317, MCA, is amended to read:

"45-6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when the person purposely or knowingly:

(a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred;

(b) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;

(c) makes or directs another to make a false or deceptive statement to any person respecting the financial condition of the person making or directing another to make the statement for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or

(d) obtains or attempts to obtain property, labor, or services by any of the following means:

(i) using a credit card that was issued to another without the other's consent;

(ii) using a credit card that has been revoked or canceled;

(iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect;

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

- (iv) using the pretended number or description of a fictitious credit card;
- (v) using a credit card that has expired when the credit card clearly indicates the expiration date.

(2) A person convicted of the offense of deceptive practices shall be fined not to exceed ~~\$1,000~~ \$1,500 or imprisoned in the county jail for a term not to exceed 6 months, or both. If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both."

{Internal References to 45-6-317:

33-1-1302 x 37-51-104 x 37-51-104 x 45-2-311 x}"

Insert: "Section 12. Section 45-6-325, MCA, is amended to read:

"45-6-325. Forgery. (1) A person commits the offense of forgery when with purpose to defraud the person knowingly:

(a) without authority makes or alters a document or other object apparently capable of being used to defraud another in a manner that it purports to have been made by another or at another time or with different provisions or of different composition;

(b) issues or delivers the document or other object knowing it to have been thus made or altered;

(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or

(d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.

(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.

(3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, obligation, or power with reference to any person or property may be created, transferred, altered, or terminated.

(4) A person convicted of the offense of forgery shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the forgery is part of a common scheme or if the value of the property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 20 years, or both."

{Internal References to 45-6-325:

45-8-405 x}"

Insert: "Section 13. Section 45-6-332, MCA, is amended to read:

"45-6-332. Theft of identity. (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

(2) (a) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than ~~\$1,000~~ \$1,500 was gained or attempted to be gained shall be fined an amount not to exceed ~~\$1,000~~ \$1,500, imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) A person convicted of the offense of theft of identity if an economic benefit of ~~\$1,000~~ \$1,500 or more was gained or attempted to be gained shall be fined an amount not to exceed \$10,000, imprisoned in a state prison for a term not to exceed 10 years, or both.

(3) As used in this section, "personal identifying information" includes but is not limited to the name, date of birth, address, telephone number, driver's license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother's maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

(4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant."

{Internal References to 45-6-332:

30-14-1701 x 30-14-1712 x 30-14-1728 x 31-3-132x
31-3-132 x 31-3-132 x 33-18-605 x 33-19-410x
46-24-218 x 46-24-219 x 46-24-220 x}"

Insert: "Section 14. Section 45-6-341, MCA, is amended to read:

"45-6-341. Money laundering. (1) A person commits the offense of money laundering if the person knowingly:

(a) receives or acquires the proceeds of, or engages in transactions involving proceeds of, any activity that is unlawful under the laws of the United States or the state in which the activity occurred;

(b) gives, sells, transfers, trades, invests, conceals, transports, or otherwise makes available anything of value that the person knows is intended to be used for the purpose of committing or furthering the commission of any activity that is unlawful under the laws of the United States or the state in which the committing or furthering of the commission of the activity occurs;

(c) directs, plans, organizes, initiates, finances, manages, supervises, or facilitates the transportation or transfer of proceeds that the person knows are derived from any activity that is unlawful under the laws of the United States or the state in which the activity occurred; or

(d) conducts a financial transaction involving proceeds that the person knows are derived from any activity that is unlawful under the laws of the United States or the state in which the activity occurred when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds or to avoid a transaction reporting requirement under federal law.

(2) A person convicted of money laundering shall be fined an amount not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. If the money laundering is part of a common scheme or if the value of the proceeds or item of value exceeds ~~\$1,000~~ \$1,500, the person shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both.

(3) (a) Upon conviction, the court shall order the following property possessed by a person convicted of money laundering to be forfeited:

(i) money, including digital currency, and raw materials, products, equipment of any kind, and any other personal property involved in the money laundering;

(ii) personal property constituting or derived from proceeds obtained directly or indirectly from the money laundering; and

(iii) real property, including any right, title, and interest in any lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner to commit or facilitate the commission of, or that is derived from or maintained by the proceeds resulting from, the money laundering.

(b) The sheriff of the county where forfeited property is located shall sell the property at auction. The proceeds of the sale must be deposited in the state general fund.

(4) For purposes of this section, "digital currency" means money represented by digital information that is stored, spent, and transferred electronically by a person as part of a financial transaction."

{Internal References to 45-6-341: None.x}"

Insert: "Section 15. Section 45-7-210, MCA, is amended to read:

"45-7-210. False claim to public agency. (1) A person commits an offense under this section if the person knowingly presents for allowance, for payment, or for the purpose of concealing, avoiding, or decreasing an obligation to pay a false or fraudulent claim, bill, account, voucher, or writing to a public agency, public servant, or contractor authorized to allow or pay valid claims presented to a public agency.

(2) (a) Except as provided in subsection (2)(b), a person convicted of an offense under this section shall be fined not to exceed ~~\$1,000~~ \$1,500 or imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) If a false or fraudulent claim is knowingly submitted as part of a common scheme or if the value of the claim or the aggregate value of one or more claims exceeds ~~\$1,000~~ \$1,500, a person convicted of an offense under this section shall be fined not to exceed \$10,000 or imprisoned in the state prison for a term not to exceed 10 years, or both."

SENATE JOURNAL
EIGHTY-NINTH LEGISLATIVE DAY - APRIL 27, 2009

{Internal References to 45-7-210: None.x}"

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator R. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 645 - Free Conference Committee Report No. 1 - Senator Esp moved the Free Conference Committee report to **HB 645** be adopted. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Perry, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.

Total 37

Nays: Balyeat, Barkus, Brenden, R. Brown, T. Brown, Essmann, Hinkle, Jackson, Murphy, Peterson, Shockley, Squires, Wanzenried.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman R. Brown moved the Committee of the Whole report be adopted. Report adopted unanimously.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 8:30 a.m., Tuesday, April 28, 2009. Motion carried.

Senate adjourned at 5:28 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
NINETIETH LEGISLATIVE DAY**

Helena, Montana
April 28, 2009

Senate Chambers
State Capitol

Senate convened at 8:30 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Squires and Stewart-Peregoy, excused. Quorum present.

BILLS AND JOURNALS:

4/28/2009

Correctly printed: **HJR 32**.

Correctly enrolled: **SB 65, SB 171, SB 322, SB 503, SB 507, SB 510**.

Examined by the sponsor and found to be correct: **SB 65, SB 171, SB 322, SB 503, SB 507, SB 510**.

Delivered to the Secretary of State at 10:22 a.m., April 28, 2009: **SJR 19, SJR 30, SJR 39**.

Signed by the Speaker at 8:30 a.m., April 28, 2009: **SJR 19, SJR 39**.

Signed by the Secretary of the Senate at 2:40 p.m., April 27, 2009: **SJR 19, SJR 39**.

Signed by the President at 3:30 p.m., April 27, 2009: **SJR 19, SJR 39**.

Signed by the President at 3:45 p.m., April 27, 2009: **SJR 30**.

Signed by the Secretary of the Senate at 3:20 p.m., April 27, 2009: **SJR 30**.

Mr. President: We, your committee on Bills and Journal, having examined the daily journals for the eighty-fourth, eighty-fifth, eighty-sixth, eighty-seventh, and eighty-eighth legislative days, find the same to be correct.

Senator Curtiss, Chair

REPORTS OF SELECT COMMITTEES

**FREE CONFERENCE COMMITTEE
on House Bill 123**

Report No. 1, April 28, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 123** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 123** (reference copy -- salmon) be amended as follows:

1. Page 4, line 10.

Strike: "2012"

Insert: "2013"

For the House:

Villa, Chairman
Ankney
Jones
A. Noonan

For the Senate:

Brueggeman, Chairman
T. Brown
Hansen

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Stewart-Peregoy present at this time.

SB 476 - Governor's Amendments - Senator Shockley moved Governor's amendments to **SB 476** be concurred in. Motion carried as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 42

Nays: Balyeat, Barkus, Brenden, R. Brown, Hinkle, Jackson, Ripley.

Total 7

Absent or not voting: None.

Total 0

Excused: Squires.

Total 1

Senator Squires present at this time.

HB 658 - Free Conference Committee Report No. 1 - Senator Essmann moved the Free Conference Committee report to **HB 658** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Windy Boy, Mr. President.

Total 37

Nays: Brueggeman, Cooney, Erickson, Gallus, Hawks, Juneau, Kaufmann, Larsen, Squires, M. Tropila, Wanzenried, Williams, Zinke.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

HB 676 - Free Conference Committee Report No. 1 - Senator Bales moved the Free Conference Committee report to **HB 676** be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hamlett, Jackson, Jent, Juneau, Keane, Laible, Laslovich, McGee, Murphy, Perry, Schmidt, Steinbeisser, M. Tropila, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Balyeat, Barrett, Branae, Brenden, Cooney, Erickson, Gillan, Hansen, Hawks, Hinkle, Kaufmann, Larsen, Lewis, Moss, Peterson, Ripley, Shockley, Squires, Stewart-Peregoy, J. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 4/28/2009

SB 503, introduced by Essmann

Governor's amendments to Senate bills concurred in and returned to the Senate: 4/28/2009

SB 65, introduced by Hawks

SB 507, introduced by Story

Free Conference Committee Report No.1 adopted: 4/28/2009

SB 171, introduced by Barkus

SB 348, introduced by Essmann, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, **failed** the House with the following vote:

4/28/2009

Yeas - 58

Nays - 42

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 371, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp,

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

Essmann, Gallus, Gebhardt, Gillan, Hawks, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Windy Boy, Zinke, Mr. President.

Total 39

Nays: Cooney, Erickson, Hamlett, Hansen, Jent, Juneau, Kaufmann, Moss, Squires, M. Tropila, Williams.

Total 11

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 510, as amended by the House, passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hinkle, Jackson, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, Tutvedt, Williams, Windy Boy, Mr. President.

Total 37

Nays: Cooney, Erickson, Hansen, Hawks, Jent, Juneau, Kaufmann, Moss, Squires, J. Tropila, M. Tropila, Wanzenried, Zinke.

Total 13

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 213 concurred in as follows:

Yeas: Bales, Barrett, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.

Total 36

Nays: Balyeat, Barkus, Black, Brenden, Esp, Essmann, Hinkle, Jackson, McGee, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.

Total 14

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HJR 32 concurred in as follows:

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

Yeas: Branae, R. Brown, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.

Total 31

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Laible, McGee, Perry, Ripley, Steinbeisser, Zinke, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

Senator McGee moved to change his vote on **HB 213** from yes to no. Without objection, so ordered.

Senator Peterson moved the Senate recess until 10:30 a.m. Motion carried.

Senate in recess.

Senate reconvened at 10:30 a.m.

Roll Call. Quorum present.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE

on House Bill 2

Report No. 1, April 28, 2009

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **House Bill 2** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

And, recommend that **House Bill 2** (reference copy -- salmon) be amended as follows:

1. Page A-1, line 9.

Strike: "748,544" [general fund FY 10]

Insert: "784,458" [general fund FY 10]

2. Page A-1, line 12.

Strike: "1,921,643" [general fund FY 10]

Insert: "1,941,643" [general fund FY 10]

3. Page A-2, line 3 through line 4.

Strike: line 3 through line 4 in their entirety

4. Page A-2, line 6.

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

Strike: "IF SENATE BILL No. 460 IS PASSED AND APPROVED,"

Strike: "IS REDUCED BY"

Insert: "includes one-time-only money of"

Following: "2010 AND"

Strike: "BY"

5. Page A-2, line 7.

Following: "FISCAL YEAR 2011" on line 7

Insert: "for monitoring of the federal American Recovery and Reinvestment Act of 2009."

6. Page A-2, line 18.

Strike: "2,461,531 2,463,759" [general fund FY10 and FY11]

Insert: "2,733,434 2,738,417" [general fund FY10 and FY11]

7. Page A-3, line 22.

Strike: "reductions"

Insert: "increases"

Following: "money of "

Strike: "\$183,161"

Insert: "\$88,742"

Following: "2010 and "

Strike: "\$183,161"

Insert: "\$91,497"

8. Page A-4, line 1.

Strike: "reductions"

Insert: "increases"

9. Page A-6, line 12.

Strike: "2,564,823 2,632,131" [general fund FY10 and FY11]

Insert: "4,314,823 4,382,131" [general fund FY10 and FY11]

10. Page A-6.

Following: line 14

Insert: "b. Restoration of Unspecified Reduction (OTO)

250,000 250,000" [general fund in FY10 and FY11]

11. Page A-7.

Following: line 9

Insert: "c. SB 503 -- Montana Economic Stimulus Act

86,166 77,066" [general fund in FY 2010 and FY 2011]

12. Page A-7.

Following: line 11

Insert: "a. HB 658 -- Mitigate Reappraisal (OTO)

808,646 778,407" [general fund in FY 2010 and FY 2011]

13. Page A-7, line 16.

Strike: "\$3,002,852" in both places

Insert: "\$1,252,852" in both places

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

14. Page A-7.

Following: line 17

Insert: "The agency may allocate Restoration of Unspecified Reduction among programs when developing 2011 biennium operating plans."

15. Page A-7.

Following: line 21

Insert: "If Senate Bill No. 503 is not passed and approved, SB 503 -- Montana Economic Stimulus Act is void.
If House Bill No. 658 is not passed and approved, HB 658 -- Mitigate Reappraisal is void."

16. Page A-8.

Following: line 10

Insert: "b. HB 213 -- Establish Southwestern Montana Veterans' Home (OTO) 32,253" [state special fund in FY 2010]

17. Page A-8, line 16.

Strike: "263,132 263,132" [federal special fund in FY 2010 and FY 2011]

Insert: "526,264" [federal special fund in FY 2010]

18. Page A-8.

Strike: line 20 through line 21 in their entirety

Insert: "b. SB 57 -- Revise Laws Governing Special Districts 42,000 35,850" [state special fund in FY 2010 and FY 2011]

19. Page A-9.

Following: line 5

Insert: "c. SB 351 -- Revise Residential Mortgage Licensing Law 37,912 30,970" [state special revenue in FY 2010 and FY 2011]

20. Page A-10.

Following: line 1

Insert: "If House Bill No. 213 is not passed and approved, HB 213 -- Establish Southwestern Montana Veterans' Home is void."

21. Page A-10.

Following: line 19

Insert: "g. High-Performance Computing (OTO)
1,000,000 1,000,000" [general fund in FY 2010 and FY 2011]

22. Page A-11, line 12.

Strike: "3,000,000" [state special fund FY 10]

Insert: "4,336,784 1,399,859" [state special fund FY 10 and FY 11]

23. Page A-12.

Strike: line 8

24. Page A-12.

Following: line 11

Insert: "If Senate Bill No. 100 is not passed and approved, the appropriation for Coal Board Local Impact Grants is reduced by \$1,336,784 state special revenue in fiscal year 2010 and \$1,399,859 state special revenue in fiscal year 2011."

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

25. Page A-12, line 22.

Strike: "9,997,707 9,982,154" [state special fund FY 10 and FY 11]

Insert: "10,018,677 10,003,124" [state special fund FY 10 and FY 11]

26. Page A-13, line 4.

Strike: "14,377,938 14,394,755" [state special fund FY 10 and FY 11]

Insert: "14,454,050 14,419,340" [state special fund FY 10 and FY 11]

27. Page A-13.

Following: line 13

Insert: "If House Bill No. 662 is not passed and approved, the appropriation to the Business Standards Division is reduced by \$32,648 of state special revenue in fiscal year 2010 and by \$18,558 of state special revenue in fiscal year 2011.

If Senate Bill No. 271 is not passed and approved, the appropriation to the Business Standards Division is reduced by \$10,981 of state special revenue in fiscal year 2010.

If House Bill No. 578 is not passed and approved, the appropriation to the Business Standards Division is reduced by \$12,661 of state special revenue in fiscal year 2010."

28. Page B-1, line 4.

Strike: "31,632,822 32,510,189" [general fund FY10 and FY11]

Insert: "31,646,022 32,523,389" [general fund FY10 and FY11]

Strike: "1,274,231" [state special fund FY10]

Insert: "1,274,369" [state special fund FY10]

29. Page B-1, line 5.

Strike: "1,275,963" [state special fund FY11]

Insert: "1,276,101" [state special fund FY11]

Strike: "199,038,960 207,258,400" [federal special fund FY10 and FY11]

Insert: "199,055,582 207,275,022" [federal special fund FY10 and FY11]

30. Page B-1, line 10 through line 11.

Strike: line 10 through line 11 in their entirety

Renumber: subsequent sections

31. Page B-1

Following: line 22

Insert: "d. Rent Increases (Restricted)

150,797 163,073 [general fund FY10 and FY11]

1,573 1,701 [state special fund FY10]

156,071 168,777 [federal special fund FY10 and FY11]

e. Renewable Energy Certificates

65,625" [state special revenue FY2011]

f. Additional Universal System Benefits

89,920 179,840 [state special revenue FY 10 and FY 11]

g. Renewable Energy Certificates

65,625" [state special revenue FY2011]

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

h. Additional Universal System Benefits
89,920 179,840" [state special revenue FY 10 and FY 11]

32. Page B-2, line 2.

Strike: "27,596,106 28,578,012" [federal special fund FY10 and FY11]

Insert: "26,690,146 27,672,052" [federal special fund FY10 and FY11]

33. Page B-2, line 3.

Strike: "32,702,790 33,900,913" [general fund FY10 and FY11]

Insert: "32,915,112 34,113,235" [general fund FY10 and FY11]

34. Page B-2, line 9.

Strike: "277,000 277,000" [general fund FY10 and FY11]

Insert: "227,000 227,000" [general fund FY10 and FY11]

987,000 987,000" [federal special fund FY10 and FY11]

35. Page B-2

Following: line 9

Insert: "b. Rent Increases (Restricted)

190,189 206,148 [general fund FY10 and FY11]

106,982 115,958" [federal special fund FY10 and FY11]

36. Page B-2, line 14.

Strike: "1,741,420" [general fund FY 2010]

Insert: "2,215,067" [general fund FY 2010]

37. Page B-2

Following: line 14

Insert: "a. Rent Increases (Restricted)

65,292 61,057 [general fund FY10 and FY11]

126,854 118,628" [federal special fund FY10 and FY11]

38. Page B-2, line 20.

Strike: "2,275,020 2,279,527" [general fund FY10 FY11]

Insert: "2,611,399 2,645,967" [general fund FY10 FY11]

Strike: "17,660,979 17,688,454" [state special fund FY10 FY11]

Insert: "17,324,600 17,322,014" [state special fund FY10 FY11]

39. Page B-3

Following: line 15

Insert: "b. Rent Increases (Restricted)

26,160 28,059 [general fund FY10 and FY11]

5,414 5,797 [state special fund FY10 and FY11]

37,477 40,016" [federal special fund FY10 and FY11]

40. Page B-3, line 18.

Strike: "52,999,747 53,863,403" [general fund FY 10 and FY 11]

Insert: "55,180,831 56,044,487" [general fund FY 10 and FY 11]

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

41. Page B-4, line 6.

Strike: "2,252,469 2,322,868" [general fund FY 10 and FY 11]

Insert: "1,252,469 1,322,868" [general fund FY 10 and FY 11]

42. Page B-4

Following: line 8

Insert: "d. Rent Increases (Restricted)

84,529 90,517 [general fund FY10 and FY11]

6,496 6,957 [state special fund FY10 and FY11]

54,965 58,859" [federal special fund FY10 and FY11]

e. Autism Home -- Bozeman (Restricted/Biennial/OTO) 400,000" [general fund FY 10]

43. Page B-4, line 10.

Strike: "119,398,495 127,982,185" [general fund FY 10 and FY 11]

Insert: "119,148,495 127,732,185" [general fund FY 10 and FY 11]

44. Page B-4, line 11.

Strike: "6,884,927 9,337,599" [state special fund FY10 and FY11]

Insert: "23,573,568 26,026,240" [state special fund FY10 and FY11]

Strike: "285,921,988 304,665,158" [federal special fund FY10 and FY11]

Insert: "322,263,666 341,006,836" [federal special fund FY10 and FY11]

45. Page B-4, line 14.

Strike: line 14

Insert: "22,011,707 22,460,950" [state special fund FY10 and FY11]

"74,277,475 75,793,424" [federal special fund FY10 and FY11]

46. Page B-4, line 21.

Following: "Restricted"

Insert: "/Biennial"

47. Page B-5.

Strike: line 1

Insert: "25,960,000" [state special fund FY10]

"86,762,536" [federal special fund FY10]

48. Page B-5, line 9.

Strike: "7,602,567 8,169,677" [general fund FY 10 and FY 11]

Insert: "6,602,567 7,169,677" [general fund FY 10 and FY 11]

49. Page B-5, following line 9.

Insert: "g. Medicaid Funding for Certain Transplants for Adults (Restricted/OTO)

703,168 997,877" [general fund FY 10 and FY 11]

"2,372,809 2,035,183" [federal special fund FY10 and FY11]

"h. HIV Testing

43,335 46,542" [general fund FY 10 and FY 11]

"89,961 96,752" [federal special fund FY10 and FY11]

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

50. Page B-5, line 11.

Strike: "30,912,433" [state special fund FY11]

Insert: "31,301,593" [state special fund FY11]

51. Page B-5, line 12.

Strike: "53,677,632 53,813,843" [general fund FY 10 and FY 11]

Insert: "54,677,632 54,813,843" [general fund FY 10 and FY 11]

Strike: "29,945,880" [state special fund FY10]

Insert: "30,326,045" [state special fund FY10]

52. Page B-5, line 22.

Strike: "3,476,265 3,482,536" [general fund FY 10 and FY 11]

Insert: "2,476,265 2,482,536" [general fund FY 10 and FY 11]

53. Page B-6, line 10.

Strike: "60,089,322 60,310,060" [general fund FY10 and FY11]

Insert: "64,355,585 65,585,660" [general fund FY10 and FY11]

Strike: "8,178,820 8,706,730" [state special fund FY10 and FY11]

Insert: "8,422,010 8,957,218" [state special fund FY10 and FY11]

54. Page B-6, line 17.

Strike: "1,318,879 1,374,740" [general fund FY 10 and FY 11]

Insert: "318,879 374,740" [general fund FY 10 and FY 11]

55. Page B-6, line 19.

Strike: "240,866 239,454" [general fund FY10 and FY11]

Insert: "1,240,866 1,239,454" [general fund FY10 and FY11]

Strike: "1,102,485 1,097,369" [state special fund FY 10 and FY 11]

56. Page B-8, line 19 through page B-9, line 4.

Strike: line 19 on page B-8 through line 4 on page B-9

57. Page B-10.

Strike: line 1 through line 3

58. Page B-10.

Following: line 5

Insert: "Health Resources Division includes a reduction of \$1,250,000 in general fund money in each year of the biennium. The agency may allocate this reduction in funding among programs when developing 2011 biennium operating plans."

59. Page B-10.

Strike: line 9 through line 10

Insert: "HIV Testing is contingent upon passage and approval of Senate Bill No. 350."

60. Page B-10, line 13 through line 14.

Following: "increased" on line 13

Strike: remainder of line 13 through line 14

Insert: "by \$18,750 in general fund money each year of the biennium."

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

61. Page C-1, line 8.

Strike: "9,469,445 9,534,605" [state special fund FY10 and FY11]

Insert: "9,031,578 9,053,522" [state special fund FY10 and FY11]

Strike: "492,114 503,729" [federal special fund FY10 and FY11]

Insert: "348,721 349,252" [federal special fund FY10 and FY11]

62. Page C-1.

Following: line 12

Insert: "c. Come Home to Hunt Pilot Project (Restricted) 493,000 493,000" [state special revenue fund FY10 and FY11]

63. Page C-1, line 14.

Strike: "8,191,104 8,220,167" [federal special fund FY10 and FY11]

Insert: "8,271,104 8,300,167" [federal special fund FY10 and FY11]

64. Page C-1, line 22.

Strike: "5,144,584 5,172,913" [state special fund FY10 and FY11]

Insert: "5,370,178 5,430,907" [state special fund FY10 and FY11]

65. Page C-3.

Following: line 5

Insert: "If House Bill No. 674 is not passed and approved, Field Services Division is increased by \$437,861 state special revenue and \$143,393 federal special revenue in fiscal year 2010 and \$481,083 state special revenue and \$154,477 federal special revenue in fiscal year 2011.

If House Bill No. 585 is not passed and approved, Come Home to Hunt Pilot Project is void.

If Senate Bill No. 425 is not passed and approved, Fisheries Division is reduced by \$80,000 federal special revenue in fiscal year 2010 and fiscal year 2011."

66. Page C-4.

Strike: line 6 through line 9 in their entirety

67. Page C-4, line 11.

Strike: "1,336,464 1,347,933" [general fund FY10 and FY11]

Insert: "1,595,184 1,631,821" [general fund FY10 and FY11]

Strike: "16,137,785 16,163,363" [state special fund FY10 and FY11]

Insert: "16,435,227 16,450,096" [state special fund FY10 and FY 11]

68. Page C-4.

Following: line 15

Insert: "c. Restoration of Unspecified Reduction (OTO)

250,000 250,000" [general fund in FY10 and FY11]

69. Page C-5.

Strike: line 6 through line 7 in their entirety

70. Page C-5.

Following: line 9

Insert: "If Senate Bill No. 360 is not passed and approved, then Permitting and Compliance Division is reduced by \$8,720 general fund in fiscal year 2010 and by \$33,888 in fiscal year 2011.

If House Bill No. 678 is not passed and approved, Permitting and Compliance Division is reduced by

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

\$297,442 state special revenue in fiscal year 2010 and \$286,733 state special revenue in fiscal year 2011.

The agency may allocate Restoration of Unspecified Reduction among programs when developing 2011 biennium operating plans."

71. Page C-6.

Strike: line 21 through line 22 in their entirety

Insert: "b. Senior Transportation (Restricted/Biennial/OTO) 300,000" [state special fund in FY 2010]

72. Page C-7.

Strike: line 12 in its entirety

Insert: "State special revenue for Emergency Medical Services Grants may be decreased and federal special revenue increased by a like amount if federal funds are available for the purposes of House Bill No. 85.

Senior Transportation may be used only for the purposes identified in 7-14-112. If House Bill No. 645 does not include a transfer of \$300,000 from the general fund to the senior citizen and persons with disabilities transportation services account established by 7-14-112, Senior Transportation is void."

73. Page C-7, line 16.

Strike: "49,647" [general fund FY11]

Insert: "49,317" [general fund FY11]

74. Page C-8, line 1.

Strike: "468,310 475,057" [general fund FY10 and FY11]

Insert: "441,457 448,192" [general fund FY10 and FY11]

Strike: "1,288,368 1,540,829" [state special fund FY10 and FY11]

Insert: "1,315,221 1,567,694" [state special fund FY10 and FY11]

75. Page C-9, line 4.

Strike: "134,291 133,361" [general fund FY10 and FY11]

Insert: "250,000 250,000" [general fund FY10 and FY11]

Insert: "169,447 455,274" [state special fund FY10 and FY11]

76. Page C-10.

Following: line 21

Insert: "d. Board of Oil and Gas Conservation Technical FTE (Restricted) 74,654 74,676" [state special fund FY10 and FY11]

e. CBM -- Water Production Study (Biennial/OTO) 50,000" [general fund FY2010]

77. Page C-11, line 1.

Strike: "3,262,479 3,284,005" [state special fund FY10 and FY11]

Insert: "3,122,479 3,144,005" [state special fund FY10 and FY11]

78. Page C-11.

Following: line 5

Insert: "c. Conservation District Grants (Restricted/OTO) 80,000 80,000" [state special fund FY10 and FY11]

79. Page C-11.

Following: line 7

Insert: "a. Update State Water Plan (Restricted/OTO) 154,735 152,085" [general fund FY10 and FY11]

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

80. Page C-11, line 11.

Strike: "15,869,216 16,003,083" [state special fund FY10 and FY11]

Insert: "15,894,216 16,028,083" [state special fund FY10 and FY11]

81. Page C-11.

Following: line 17

Insert: "d. Reliance Refinery Cleanup (Restricted/Biennial/OTO) 5,100,000 4,500,000" [state special fund FY10 and FY11]

"e. Navigable Rivers 10,000 10,000" [state special fund FY10 and FY11]

82. Page C-11.

Following: line 22.

Insert: "If House Bill No. 575 is not passed and approved, CBM -- Water Production Study is void."

83. Page C-12.

Following: line 8

Insert: "If House Bill No. 676 is not passed and approved with an amendment to the coal tax shared fund, Conservation District Grants is void."

84. Page C-12.

Following: line 15

Insert: "If Senate Bill No. 303 is not passed and approved, Update State Water Plan is void.

If House Bill No. 674 is not passed and approved, Forestry and Trust Lands is reduced by \$25,000 state special revenue in fiscal year 2010 and in fiscal year 2011.

The department may use up to \$600,000 of Reliance Refinery Cleanup funds for grants to community partners for the purpose of furthering or expediting remediation or redevelopment activities.

If Senate Bill No. 507 is not passed and approved, Navigable Rivers is void."

85. Page C-13.

Following: line 10

Insert: "c. Fertilizer Check-Off Research 200,152 200,152" [state special fund FY10 and FY11]

86. Page C-13, line 14.

Following: "("

Insert: "Restricted/"

87. Page C-13, line 16.

Strike: "250,000 250,000" [state special fund FY10 and FY11]

Insert: "80,000 80,000" [state special fund FY10 and FY11]

88. Page C-13.

Following: line 20

Insert: "If Senate Bill No. 300 is not passed and approved, Fertilizer Check-Off Research is void."

89. Page C-14.

Strike: line 1 through line 2

Insert: "If House Bill No. 676 is not passed and approved with an amendment to the coal tax shared fund, Growth Through Agriculture Grants is void."

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

90. Page D-3.

Following: line 12

Insert: "b. Major Litigation -- Yellowstone Compact (Restricted/Biennial/OTO)
300,000 300,000" [general fund FY 2010 and FY 2011]

91. Page D-3, line 15.

Strike: "626,199 626,647" [state special fund FY 2010 and FY 2011]

Insert: "1,728,684 1,724,016" [state special fund FY 2010 and FY 2011]

92. Page D-3, line 21.

Strike: "5,770,645 5,785,557" [state special fund FY 2010 and FY 2011]

Insert: "7,545,295 9,256,924" [state special fund FY 2010 and FY 2011]

93. Page D-4.

Strike: line 2 through line 3 in their entirety

94. Page D-6, line 7.

Strike: "18,688,030 18,636,797" [general fund FY10 and FY11]

Insert: "18,938,030 18,886,797" [general fund FY10 and FY11]

Strike: "293,456 293,456" [state special fund FY10 and FY11]

Insert: "43,456 43,456" [state special fund FY10 and FY11]

95. Page D-6.

Following: line 7

Insert: "a. Relocate Lewis and Clark County Office Due to SB 158 Impact (Restricted/OTO) 59,043 7,556"[general fund FY 2010 and FY 2011]

96. Page D-6.

Strike: line 17 through line 20 in their entirety

Insert: "Funding in Relocate Lewis and Clark County Office Due to SB 158 Impact is contingent upon and passage and approval of Senate Bill No. 158. If Senate Bill No. 158 is not passed and approved, funding in Relocate Lewis and Clark County Office Due to SB 158 Impact is void."

97. Page D-7, line 10.

Strike: "58,359,201" [general fund FY 2011]

Insert: "59,859,201" [general fund FY 2011]

98. Page D-7, line 22.

Strike: "2,061,653 2,064,664" [general fund FY 2010 and FY 2011]

Insert: "962,154 965,016" [general fund FY 2010 and FY 2011]

99. Page D-8.

Strike: line 1 through line 2 in their entirety

Renumber: subsequent subsections

100. Page D-8.

Following: line 4

Insert: "b. License Plate Budget (OTO)
1,099,499" [general fund FY 2010]

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

101. Page D-8.

Following: line 14

Insert: "Community Corrections includes an increase of \$1,500,000 in general fund money in fiscal year 2011. The agency may allocate this increase in funding among programs when developing 2011 biennium operating plans.

Community Corrections includes \$392,625 in general fund money in fiscal year 2010 and \$785,249 in general fund money in fiscal year 2011 that may be used only for provider rate increases for contracted community corrections services such as prerelease centers and treatment programs. "

102. Page D-8.

Following: line 22

Insert: "If Senate Bill No. 508 is not passed and approved, general fund money in Montana Correctional Enterprises is increased by \$1,099,499 in fiscal year 2010 and \$1,099,648 in fiscal year 2011 and the item License Plate Budget is void. If Senate Bill No. 508 is not passed and approved, \$2,886,308 in general fund money is appropriated as a restricted, biennial, one-time-only appropriation to support the reissue of license plates as required in 61-3-332."

103. Page E-1, line 13.

Strike: "~~528,979,895 529,951,539~~" [general fund FY10 FY11]

Insert: "528,670,835 541,158,569" [general fund FY10 FY11]

104. Page E-2.

Following: line 15

Insert: "n. HB 464 -- Advancing Agricultural Education in Montana (Restricted/Biennial)
110,750 113,250" [general fund FY10 & FY11]

105. Page E-3.

Following: line 7

Insert: "If House Bill No. 464 is not passed and approved, the item for HB 464 -- Advancing Agricultural Education in Montana is void."

106. Page E-4, line 9.

Strike: "~~3,515,682 3,504,253~~" [general fund FY10 and FY11]

Insert: "3,558,182 3,546,753" [general fund FY10 and FY11]

107. Page E-4, line 14.

Strike: "~~\$118,881~~"

Insert: "\$76,381"

108. Page E-5, line 10.

Strike: "863,530 863,523" [state special fund FY10 and FY11]

Insert: "803,530 803,523" [state special fund FY10 and FY11]

109. Page E-5, line 11.

Strike: "~~2,496,928 2,711,111~~" [general fund FY10 and FY11]

Insert: "2,538,648 2,752,830" [general fund FY10 and FY11]

110. Page E-5.

Following: line 15

Insert: "c. Library Courier Services Pilot Project (Restricted/OTO) 80,000 80,000" [state special fund FY10

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

and FY11]

111. Page E-5, line 20.

Strike: "\$55,456 EACH YEAR OF THE BIENNIUM"

Insert: "\$13,736 in fiscal year 2010 and \$13,737 in fiscal year 2011"

112. Page E-6.

Strike: line 1 through line 3

Insert: "If House Bill No. 676 is not passed and approved with an amendment to the coal tax shared fund, Library Courier Services Pilot Project is void."

113. Page E-6, line 7.

Strike: "1,087,870 1,103,458" [general fund FY10 and FY11]

Insert: "1,130,370 1,145,958" [general fund FY10 and FY11]

114. Page E-7, line 5.

Strike: "\$54,217"

Insert: "\$11,717"

115. Page E-7, line 9.

Strike: "2,275,234 2,284,338" [general fund FY10 & FY11]

Insert: "1,506,806 1,515,912" [general fund FY10 & FY11]

116. Page E-7, line 19.

Strike: "8,710,093 8,710,093" [general fund FY10 & FY11]

Insert: "8,535,484 8,535,483" [general fund FY10 & FY11]

117. Page E-8, line 6.

Strike: "128,382,795 130,694,418" [general fund FY10 & FY11]

Insert: "129,325,832 131,637,454" [general fund FY10 & FY11]

118. Page E-8.

Following: line 8

Insert: "b. Montana State University-Northern -- Biodiesel Research (Biennial/OTO) 400,000" [general fund FY2010]

Renumber: subsequent subsections

119. Page E-8.

Strike: line 13 through line 14 in their entirety

Renumber: subsequent subsections

120. Page E-10.

Following: line 5

Insert: "OCHE--Administration includes a reduction in general fund money of \$768,428 in fiscal year 2010 and \$768,426 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans."

121. Page E-10.

Following: line 10

Insert: "OCHE--Community College Assistance includes a reduction in general fund money of \$174,609 in fiscal year

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

2010 and \$174,610 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

The variable cost of education for each full-time equivalent student at the community colleges, including Summitnet, is \$2,194 for each year of the 2009 biennium. The general fund appropriation for OCHE--Community College Assistance in [this act], the general fund appropriation for Community College Assistance--Restore to Governor's December 15 Budget in House Bill No. 645, and the federal special revenue appropriation for Community Colleges Tuition Mitigation in House Bill No. 645 provide 50.8% of the fixed cost of education plus 50.8% of the variable cost of education for each full-time equivalent student in fiscal year 2010 and fiscal year 2011. The remaining percentage of the budget must be paid from funds other than those appropriated in House Bill No. 2 or House Bill No. 645.

The sum of the general fund appropriation for OCHE--Community College Assistance in [this act], the general fund appropriation for Community College Assistance--Restore to Governor's December 15 Budget in House Bill No. 645, and the federal special revenue appropriation for Community Colleges Tuition Mitigation in House Bill No. 645 is calculated to fund education in the community colleges for an estimated 2,434 resident FTE students in fiscal year 2010 and 2,535 resident FTE students in fiscal year 2011. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. If actual resident FTE student enrollment is less than the estimated number for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142."

122. Page E-11, line 12.

Strike: "\$3,612,195"

Insert: "\$2,669,158"

Strike: "\$3,612,194"

Insert: "\$2,669,158"

For the House:

Sesso, Vice Chair
Hawk
Hiner
Jones

For the Senate:

Bales, Chairman
Lewis
Schmidt

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 2 - Free Conference Committee Report No. 1 - Senator Bales moved the Free Conference Committee report to **HB 2** be adopted. Motion carried as follows:

Yeas: Bales, Barkus, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Gebhardt, Hamlett, Hansen, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 28

Nays: Balyeat, Barrett, Branae, Brenden, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hawks, Hinkle, Juneau,

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

Kaufmann, Larsen, Moss, Murphy, Peterson, Ripley, Shockley, Steinbeisser, Wanzenried.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 123 - Free Conference Committee Report No. 1 - Senator Brueggeman moved the Free Conference Committee report to **HB 123** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 476, as amended by the Governor, passed as follows:

Yeas: Bales, Barrett, Black, Branae, T. Brown, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Balyeat, Barkus, Brenden, R. Brown, Brueggeman, Hinkle, Jackson, Squires, Wanzenried, Williams.
Total 10

Absent or not voting: None.
Total 0

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

Excused: None.
Total 0

HB 5, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Esp, Hinkle, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 11, as amended by the Governor, concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, Essmann, Hinkle, Shockley, Tutvedt.
Total 5

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 644 concurred in as follows:

Yeas: Bales, Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Mr. President.
Total 27

Nays: Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Jent, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke.
Total 23

Absent or not voting: None.
Total 0

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

Excused: None.
Total 0

Senator Peterson moved the Senate recess until 1:30 p.m. Motion carried.

Senate in recess.

Senate reconvened at 1:30 p.m.

COMMUNICATIONS AND PETITIONS

Date: April 28, 2009
To: Marilyn Miller, Secretary of Senate
From: David Hunter, Chief Clerk of the House

I am directed by the House to request the return of **SB 348**. The House on Motions voted to reconsider its action on **SB 348** by a vote of 55-43 on this legislative day.

MOTIONS

Senator Peterson moved to return **SB 348** to the House of Representatives. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 2, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, R. Brown, T. Brown, Brueggeman, Curtiss, Gebhardt, Hamlett, Hansen, Jackson, Jent, Keane, Laible, Laslovich, Lewis, McGee, Perry, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 27

Nays: Balyeat, Barrett, Branae, Brenden, Cooney, Erickson, Esp, Essmann, Gallus, Gillan, Hawks, Hinkle, Juneau, Kaufmann, Larsen, Moss, Murphy, Peterson, Ripley, Shockley, Squires, Steinbeisser, Wanzenried.
Total 23

Paired: Windy Boy, Aye; Hawks, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 123, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy,

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.
Total 43

Nays: Balyeat, Jackson, Kaufmann, Shockley, Squires, Wanzenried.
Total 6

Absent or not voting: None.
Total 0

Excused: Windy Boy.
Total 1

HB 645, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Jent, Keane, Laible, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 34

Nays: Balyeat, Barkus, R. Brown, Esp, Essmann, Gallus, Hawks, Hinkle, Jackson, Juneau, Kaufmann, Larsen, Peterson, Shockley, Squires, Wanzenried.
Total 16

Paired: Windy Boy, Aye; Hawks, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 658, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Keane, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Williams, Windy Boy, Zinke, Mr. President.
Total 37

Nays: Brueggeman, Cooney, Erickson, Gallus, Hawks, Juneau, Kaufmann, Larsen, Laslovich, Moss, Squires, M. Tropila, Wanzenried.
Total 13

Paired: Windy Boy, Aye; Hawks, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

HB 676, Free Conference Committee Report No. 1, adopted as follows:

Yeas: Bales, Barkus, Black, Branae, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hamlett, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Murphy, Perry, Schmidt, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.

Total 27

Nays: Balyeat, Barrett, Brenden, Cooney, Erickson, Essmann, Gallus, Gillan, Hansen, Hawks, Hinkle, Jackson, Kaufmann, Moss, Peterson, Ripley, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Wanzenried, Windy Boy.

Total 23

Paired: Schmidt, Aye; Windy Boy, No.

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Barkus thanked the Pages for their work April 27-28, 2009.

Senator Peterson moved that the President appoint a committee to notify the Governor that the Senate of the 61st Legislature is ready to adjourn sine die. The President appointed Senators Bales, Schmidt, Hansen, and Black.

Senator Peterson moved that the President appoint a committee to notify the House of Representatives that the Senate of the 61st Legislature is ready to adjourn sine die. The President appointed Senators McGee, J. Tropila, Squires, and Laible.

Senator Peterson moved that the President appoint a committee to notify the Supreme Court that the Senate of the 61st Legislature is ready to adjourn sine die. The President appointed Senators Perry, Curtiss, Cooney, Esp, and Gebhardt.

The committee to inform the Senate that the House of Representatives is ready to adjourn sine die was admitted into the Senate Chambers and reported to the Senate. The committee was thanked.

Senate committees sent to notify the Governor, Supreme Court, and House of Representatives returned and were discharged.

SENATE JOURNAL
NINETIETH LEGISLATIVE DAY - APRIL 28, 2009

ADJOURNMENT

Senator Squires moved the Senate adjourn sine die at 2:32 p.m. Motion carried.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

**SENATE JOURNAL
61ST LEGISLATURE
ADDENDUM**

Helena, Montana
2009

Senate Chambers
State Capitol

BILLS AND JOURNALS:

5/4/2009

Correctly enrolled: **SB 263, SB 476.**

Examined by the sponsor and found to be correct: **SB 257, SB 263, SB 403, SB 439, SB 476, SB 489.**

Signed by the Speaker at 9:00 a.m., April 30, 2009: **SB 257, SB 403, SB 439, SB 489.**

Signed by the President at 3:30 p.m., April 28, 2009: **SB 257, SB 403, SB 439, SB 489.**

Signed by the Secretary of the Senate at 9:05 a.m., April 27, 2009: **SB 257, SB 403, SB 439, SB 489.**

Signed by the Speaker at 9:00 a.m., April 30, 2009: **SB 498.**

Signed by the President at 3:20 p.m., April 29, 2009: **SB 498.**

Signed by the Secretary of the Senate at 9:05 a.m., April 27, 2009: **SB 498.**

Signed by the Speaker at 9:00 a.m., April 30, 2009: **SB 476.**

Signed by the President at 11:30 a.m., April 29, 2009: **SB 476.**

Signed by the Secretary of the Senate at 11:15 a.m., April 29, 2009: **SB 476.**

Signed by the Speaker at 9:00 a.m., April 30, 2009: **SB 263.**

Signed by the President at 1:20 p.m., April 29, 2009: **SB 263.**

Signed by the Secretary of the Senate at 10:45 a.m., April 29, 2009: **SB 263.**

Signed by the Speaker at 9:00 a.m., April 30, 2009: **SB 322, SB 418.**

Signed by the President at 10:15 a.m., April 28, 2009: **SB 322, SB 418.**

Signed by the Secretary of the Senate at 9:05 a.m., April 28, 2009: **SB 322, SB 418.**

Signed by the Speaker at 9:00 a.m., April 30, 2009: **SB 65, SB 171, SB 503, SB 507, SB 510.**

Signed by the President at 1:30 p.m., April 29, 2009: **SB 65, SB 171, SB 503, SB 507, SB 510.**

Signed by the Secretary of the Senate at 3:05 p.m., April 28, 2009: **SB 65, SB 171, SB 503, SB 507, SB 510.**

Signed by the Speaker at 4:00 p.m., April 27, 2009: **SB 119, SB 235, SB 290, SB 400, SB 446, SB 465.**

Signed by the President at 3:30 p.m., April 27, 2009: **SB 119, SB 235, SB 290, SB 400, SB 446, SB 465.**

Signed by the Secretary of the Senate at 2:40 p.m., April 27, 2009: **SB 119, SB 235, SB 290, SB 400, SB 446, SB 465.**

Delivered to the Governor for approval at 4:00 p.m., April 28, 2009: **SB 119, SB 235, SB 290, SB 400, SB 446, SB 465.**

Delivered to the Governor for approval at 11:17 a.m., April 30, 2009: **SB 65, SB 171, SB 257, SB 263, SB 322, SB 403, SB 418, SB 439, SB 476, SB 489, SB 498, SB 503, SB 507, SB 510.**

COMMUNICATIONS AND PETITIONS

Governor Brian Schweitzer
State Capitol
Helena, MT 59601

Dear Governor Schweitzer:

Your amendatory veto of Senate Bill 371 was not concurred in by the legislature.

Pursuant to Joint Rule 40-230(4)(c), I am returning the bill for your further consideration.

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

Sincerely,

Marilyn Miller
Secretary

Governor Brian Schweitzer
State Capitol
Helena, MT 59601

Dear Governor Schweitzer:

Your amendatory veto of Senate Bill 360 was not concurred in by the legislature.

Pursuant to Joint Rule 40-230(4)(c), I am returning the bill for your further consideration.

Sincerely,

Marilyn Miller
Secretary

MESSAGES FROM THE GOVERNOR

April 29, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 249, "AN ACT REQUIRING THE DEPARTMENT OF JUSTICE TO ISSUE A LIMITED-USE DRIVER'S LICENSE, UNDER CERTAIN CIRCUMSTANCES, TO A PERSON WHOSE LICENSE HAS BEEN SUSPENDED OR REVOKED BY ANOTHER STATE; AMENDING SECTIONS 61-5-103 AND 61-5-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Senate Bill 249, sponsored by Senator Curtiss, creates an exception to current law, which prohibits the Department of Justice from issuing a driver's license to an individual whose license or driving privilege is currently suspended, revoked, or canceled by another state, as indicated by an "ineligible" status on the national driver register.

My objection to the bill is that I do not believe it is appropriate to carve out a specific exception to the longstanding public policy of this state that the decision by a sister state to suspend, revoke, or cancel an individual's drivers' license will be respected by Montana.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

April 29, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 291, **“AN ACT ESTABLISHING THE MONTANA RAILROAD DEVELOPMENT AUTHORITY; DEFINING TERMS; ESTABLISHING AUTHORITY MEMBERSHIP; AUTHORIZING THE APPOINTMENT OF AUTHORITY MEMBERS; CLARIFYING THE PUBLIC SERVICE COMMISSION'S AUTHORITY; REQUIRING THAT THE LEGISLATURE APPROVE THE AUTHORITY'S ACQUISITION OF A RAILROAD FACILITY; PROVIDING THE AUTHORITY WITH CERTAIN POWERS; PROVIDING THE AUTHORITY WITH RULEMAKING AUTHORITY THAT ALLOWS IT TO ISSUE REVENUE BONDS; CLASSIFYING CERTAIN AUTHORITY RAILROAD FACILITY PROPERTY AS CLASS NINE PROPERTY FOR PROPERTY TAX PURPOSES; CLASSIFYING CERTAIN AUTHORITY RAILROAD FACILITY PROPERTY AS CLASS TWELVE PROPERTY FOR PROPERTY TAX PURPOSES; PROVIDING THAT AUTHORITY FACILITIES ARE SUBJECT TO THE PRIVILEGE TAX; REQUIRING THAT THE AUTHORITY REPAY STATE APPROPRIATIONS; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO CONSULT WITH THE AUTHORITY IN ADMINISTERING THE MONTANA ESSENTIAL FREIGHT RAIL ACT; ELIMINATING THE RAIL SERVICE COMPETITION COUNCIL; AMENDING SECTIONS ; REPEALING SECTION 2-15-2511, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”**

Senate Bill 291 replaces the existing Rail Service Competition Council (“RSCC”) with a new Montana Railroad Development Authority, ostensibly for the purpose of increasing rail competition. I do not believe it would create competition. Rather, I believe it would expand unneeded bureaucracy and increase the possibility that public money will be targeted to build infrastructure that should be rightly financed by the private sector.

The existing RSCC has been doing a commendable job of analyzing the factors involved in the lack of railroad competition in Montana. The RSCC also has done a very good job of informing policymakers, including the Legislature, of rail competition issues and possible solutions for moving forward in this difficult but important area.

The State should be concerned about the potential use of public money to build railroad infrastructure to serve private railroads, which by necessity would be connected with existing rail lines, with no guarantee of increased competition or benefit to Montana shippers. The concern is a real one. Lawmakers in Washington, D.C. have recently seen a major push by Class 1 Railroads to get Congress to allocate federal money to build infrastructure to serve private railroads. While the average Montana taxpayer has no qualms with a private railroad making a fair profit, that taxpayer also agrees that it makes no sense to use public money to subsidize a situation that is fundamentally unfair to Montana shippers.

It is also worth noting that the need for rail spurs for local economic development, for industrial parks, or for other projects can currently be met by local port authorities. These authorities possess bonding capabilities that allow them to finance carefully considered and targeted projects to meet local needs. A statewide authority would add very little to what is rightly a local function.

Due to the unnecessary growth in bureaucracy proposed by this legislation, the creation of an authority that could lead to the use of funds without benefit to Montana taxpayers and shippers - or worse yet, the misuse of public funds, the

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

fact that the RSCC currently has acted effectively in raising important rail competition issues, and the fact that local port authorities can fulfill most of the functions brought forth in this bill under existing law, I ask for your support in sustaining my veto of Senate Bill 291.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

April 29, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 349, **“AN ACT CLARIFYING THAT CERTAIN CONFIDENTIAL OR PROPRIETARY INFORMATION SUBMITTED AS PART OF THE PUBLIC BIDDING OR PUBLIC CONTRACTING PROCESS FOR CERTAIN PUBLIC BUILDING AND PUBLIC HIGHWAY, ROAD, AND SIMILAR TRANSPORTATION PROJECTS IS NOT PUBLIC INFORMATION OPEN TO PUBLIC INSPECTION; AND AMENDING SECTIONS 18-2-503, 18-4-126, AND 60-2-137, MCA.”**

When I proposed Governor’s amendments to Senate Bill 349, sponsored by Senator Tutvedt, I advised the Legislature of my concerns with the bill. I believed my amendments would have cured the deficiencies with the bill regarding its constitutionality and its conflict with existing Montana procurement laws. As is its right, the Legislature chose to reject my proposed amendments, so it should come as no surprise that I have chosen to veto the bill.

Senate Bill 349 was introduced to address a perceived problem that state agencies will treat protected information, such as trade secret information, submitted to state agencies under Montana’s procurement laws, as though that information is public information. I say, “perceived,” because I am unaware of any examples cited by the proponents of the bill that protected information has been improperly released. Senate Bill 349 amends Montana procurement and construction statutes administered by the Department of Administration and also amends design-build statutes under laws administered by the Department of Transportation.

As I stated in my message to the Legislature proposing amendments to the bill, my objection to Senate Bill 349 is twofold. First, it reverses the “*constitutional presumption* that all documents of every kind in the hands of public officials are amendable to inspection, regardless of legislation. . . .” *Great Falls Tribune v. Montana Public Service Commission*, 2003 MT 359, ¶ 54, *quoting Associated Press, Inc. v. Montana Department of Revenue*, 2000 MT 160, ¶ 85. Second, it conflicts with current procurement statutes under Title 18, chapter 4, MCA.

Regarding the constitutional presumption, the *Great Falls Tribune* decision set forth the proper procedure to be used by state agencies that have in their possession information considered to be confidential. Specifically, the court rejected any conclusory, generalized statements that information is subject to protection (“mere representations” not sufficient), and required parties to make a particularized showing, through the submission of a supporting affidavit, and agencies to make particularized findings related to the claim of confidentiality. The court also held that the governmental agency had the “affirmative duty” to review the claim of the third party and make an “independent determination whether the records are in fact property rights which warrant due process protection. . . .” *Id.* at ¶¶

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

55-57. The court concluded that if the government agency requires the filing or production of trade secrets or other confidential information, “the information’s status as a trade secret or confidential proprietary information remains unchanged.” *Id.* at ¶ 60.

My first concern with Senate Bill 349 is that the amendments to § 18-4-126, MCA, found in section 2 of the bill authorize a blanket presumption of confidentiality based on the conclusory identification of the information as trade secret information by the person submitting the information, and that this standard does not meet the detailed requirements set forth in *Great Falls Tribune*.

My second concern is that the bill conflicts with § 18-4-304, MCA (which is part of Montana’s procurement code, and is not amended in Senate Bill 349), which provides that “proposal documents may be inspected by the public subject to [three specific limitations]”: matters covered by the Uniform Trade Secrets Act, matters involving individual safety as determined by the Department of Administration, and other constitutional protections. The provisions contained in section 2 of Senate Bill 349 create unnecessary conflict with § 18-4-304, MCA.

As you consider whether to sustain my veto, you need to know that the Department of Administration already has in place procedures that follow the methodology endorsed by the Montana Supreme Court in the *Great Falls Tribune* decision to protect against the improper dissemination of non-public information by allowing parties submitting confidential, trade secret information in the procurement process to make a particularized showing of confidentiality by affidavit. The procedures can be found electronically at <http://gsd.mt.gov/docs/Tradesecretaffidavit.doc>. Please also be advised that Department of Transportation Director Jim Lynch has agreed to implement similar procedures within his agency to cover design-build and other highway contracts.

For the reasons above, I ask for your support in sustaining my veto of Senate Bill 349.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

April 29, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 460, “**AN ACT PROVIDING FOR A FEDERAL ECONOMIC STIMULUS PROGRAM OVERSIGHT COMMISSION; PROVIDING FOR MEMBERS AND DUTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.**”

The Legislature has passed House Bill 645, the bill to appropriate approximately \$880 million in federal stimulus funding for Montana. Federal stimulus funding equates to roughly 10% of the state’s entire budget for the 2011 biennium. Senate Bill 460, sponsored by Senator Story, creates a special Economic Stimulus Program Oversight Commission to “oversee” the distribution and use of any federal economic stimulus program funds. My decision to veto this bill is based on two primary factors.

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

First, I believe the creation of a new Commission is unnecessary and a waste of taxpayer money. Any legislative review of the expenditure of federal stimulus dollars can be accomplished equally effectively by existing legislative committees, such as the Legislative Finance Committee and the Legislative Audit Committee. As explained above, federal stimulus money comprises only about 10% of the entire state budget, and, as required by federal law, the vast majority of the federal stimulus dollars are appropriated to existing programs. It escapes me why an entire new Commission is necessary to oversee the expenditure of this money, which by and large is appropriated to existing programs.

Second, I object to particular duties of the Commission described in Senate Bill 460. Specifically, the bill provides that the Commission may establish a website to foster greater accountability and transparency. However, the American Recovery and Reinvestment Act ("ARRA"), itself, contains requirements for accountability and transparency, for which I, as Governor, and head of the executive branch, am accountable. Pursuant to the requirements of the ARRA, my administration has already created a website, and is investing in tools to enhance the website, which comport with federal law and guidance concerning transparency. The site can be found on the internet at <http://recovery.mt.gov/default.mcp>. I believe a website created by the Commission would not only be confusing to the public but would be an unnecessary duplication of the required site that is already in existence. This, itself, would be a waste of taxpayer resources.

Similarly, Senate Bill 460 directs the Commission to "determine the transparency in bidding and the contracting process." A major feature of the ARRA is its strict requirements concerning transparency and accountability, and federal agencies will be monitoring Montana's compliance with those requirements. As stated, the executive has already begun complying through creation of the website referred to above. Indeed, if Montana does not comply with federal transparency requirements, the state runs the risk of losing these federal dollars. Additionally, Montana procurement laws already provide standards related to the transparency of state contracts. It is unclear what benefit would be provided by creating a Commission to "determine" these matters, where there are numerous safeguards already in place to assure transparency in the spending of the federal stimulus money.

Finally, I find it inappropriate to falsely empower a Commission to determine the "adequacy of public notice and opportunity for comment and input" with respect to the spending of federal stimulus dollars when the Montana Constitution and Montana statutes are abundantly clear about these requirements. Appropriate public notice and comment is a constitutional right of Montanans to which my administration adheres. Senate Bill 460 suggests otherwise, and I oppose that aspect of it, as well.

Notwithstanding my objections to particular provisions of Senate Bill 460, as stated above, I anticipate that existing legislative committees, with their existing resources, will conduct much of the work assigned under the bill to be performed by the Commission. For example, I expect the legislative branch will watch to ensure legislative intent in funding projects is being followed, projects are being coordinated, and waste and duplication is avoided. I commit to you that within the framework established by the Montana Constitution and existing laws, my administration will work with the legislative branch as these federal dollars are spent to ensure that the Legislature has the information it needs to perform its duties under the law.

I ask for your support in sustaining my veto of Senate Bill 460.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

April 29, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 575, **“AN ACT PROVIDING THAT WATER PRODUCED IN ASSOCIATION WITH COAL BED METHANE PRODUCTION MAY BE USED FOR CERTAIN PURPOSES; ALLOWING A TEMPORARY PERMIT FOR THE BENEFICIAL USE OF WATER FROM COAL BED METHANE PRODUCTION; INCREASING COMPENSATION FROM THE COAL BED METHANE PROTECTION PROGRAM; ASSESSING A FEE; REQUIRING A STUDY OF ISSUES RELATED TO WATER IN ASSOCIATION WITH OIL AND GAS PRODUCTION; AMENDING SECTIONS 15-36-331, 76-15-904, 76-15-905, AND 82-11-175, MCA; REPEALING SECTION 10, CHAPTER 531, LAWS OF 2001; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.”**

I have vetoed House Bill 575 because I believe the bill reverses longstanding principles of Western and Montana water law by allowing the issuance of a permit for the use of water associated with coal bed methane (“CBM”) production without providing protection to senior water rights holders, other than some limited compensation under a government program. Some of the water rights in jeopardy date back to the late 1800s. Reliance on this water has served as the basis of a stable agricultural economy in southeast Montana for generations. Montanans want energy development, but they also want to ensure that their agricultural neighbors are able to continue their successful operations well into the future without compromise of their established rights.

House Bill 575 was written in response to recent court decisions, but the “solution” devised in the bill is contrary to those decisions. With a sleight of hand, House Bill 575 classifies CBM groundwater as surface water, thereby circumventing the requirements of Montana’s Water Use Act, Montana’s cornerstone for protection of senior water rights. Ultimately, the bill fails to reconcile the substantive conflict between the extraction of water in the CBM process and senior water rights.

We must do better. Montana needs to take a new approach to devising a strategy that protects senior water rights holders, reduces discharges of untreated water into our surface waters, and allows responsible CBM development. CBM producers, like all other users of water, need to show that existing water rights are not being adversely affected, or they must devise long-term mitigation plans that will provide replacement water now and into the future, after CBM production ceases.

I pledge that over the coming interim, my administration will work with lawmakers and stakeholders to try to reach an agreement as to legislation that accomplishes these objectives.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

April 29, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 629, **“AN ACT PROVIDING THAT ANY SCHOOL TRUST LAND INTEREST AND INCOME IN EXCESS OF \$1 MILLION MUST BE DEPOSITED IN THE SCHOOL FLEXIBILITY ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 20-9-342, AND 20-9-542, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.”**

Pursuant to a trigger mechanism tied to the legislature’s revenue estimate, House Bill 629 diverts money that otherwise would be deposited in the guarantee account (codified at § 20-9-342, MCA) for distribution to school districts through state equalization aid, and instead directs the deposit of that money in the school flexibility account (codified at § 20-9-542, MCA), outside the state’s funding formula for K-12 public schools, which could be used by school districts for broad miscellaneous purposes.

While I understand that schools may welcome the potential distribution of money under House Bill 629, my objection is that the redistribution of funds provided for in the bill is contrary to virtually all the deliberate and targeted actions supported by my Administration and taken by the Legislature to rectify the deficiencies in Montana’s school funding formula identified by the Montana Supreme Court in *Columbia Falls Elementary School District No. 6 v. State of Montana*, 2005 MT 69. Although the legal challenge has been resolved, our responsibility to adhere to the constitutional requirement that the legislature provide “a basic system of free quality public elementary and secondary schools” remains. Mont. Constit. Article X, section 1(3); § 20-9-309, MCA.

Montana’s guarantee account is a cornerstone of Montana’s school funding formula. By statute, it “is intended to: (a) stabilize the long-term growth of the permanent fund [the public school fund provided for in Article X, section 2 of the Montana Constitution]; and (b) maintain a constant and increasing distributable revenue stream [to school districts].” § 20-9-342(1), MCA. I believe the diversion of potentially significant amounts of interest and income from the guarantee fund to the flex fund is a significant setback to the work we have accomplished in the last four years to establish a school funding formula that was upheld by a state district court and is a shortsighted investment of money in ways not tied to Montana’s school funding formula.

I ask that you sustain my veto of House Bill 629 for the important legal, policy, and fiscal reasons stated above.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

May 4, 2009

Senator Bob Story, President
Montana Senate
Capitol Building
Helena, Montana 59601

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

Representative Bob Bergren, Speaker
Montana House of Representatives
Capitol Building
Helena, Montana 59601

Dear President Story and Speaker Bergren:

The following bills were returned, without signature, to the Secretary of State, today, Monday, May 4, 2009.

HB 173 - Hendrick
HB 418 - Butcher
HB 459 - Grinde
HB 464 - O'Hara
HB 657 - Stahl
HB 659 - Roberts
HB 670 - Vincent
SB 158 - Barkus
SB 300 - Steinbeisser
SB 396 - Story

Sincerely,

BRIAN SCHWEITZER
Governor

April 24, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 8** sponsored by Senator Hansen, **Senate Bill 18** sponsored by Senator Wanzenried, **Senate Bill 38** sponsored by Senator Curtiss, **Senate Bill 48** sponsored by Senator Essmann, **Senate Bill 55** sponsored by Senator Steinbeisser, **Senate Bill 73** sponsored by Senator Hawks, **Senate Bill 79** sponsored by Senator Juneau, **Senate Bill 86** sponsored by Senator J. Tropila, **Senate Bill 97** sponsored by Senator Wanzenried, **Senate Bill 108** sponsored by Senator Jent, **Senate Bill 131** sponsored by Senator Williams, **Senate Bill 176** sponsored by Senator Perry, **Senate Bill 198** sponsored by Senator Lewis et al., **Senate Bill 204** sponsored by Senator Moss et al., **Senate Bill 214** sponsored by Senator Steinbeisser et al., **Senate Bill 231** sponsored by Senator Laible, **Senate Bill 234** sponsored by Senator Gillan et al., **Senate Bill 260** sponsored by Senator Gillan et al., **Senate Bill 264** sponsored by Senator Brueggeman, **Senate Bill 271** sponsored by Senator Squires et al., **Senate Bill 281** sponsored by Senator Shockley et al., **Senate Bill 303** sponsored by Senator Wanzenried, **Senate Bill 305** sponsored by Senator Tutvedt et al., **Senate Bill 310** sponsored by Senator Shockley et al., **Senate Bill 350** sponsored by Senator Gillan, **Senate Bill 356** sponsored by Senator Zinke, **Senate Bill 369** sponsored by Senator Esp, **Senate Bill 404** sponsored by Senator Brueggeman et al., **Senate Bill 427** sponsored by Senator Laslovich, **Senate Bill 430** sponsored by Senator Hamlett et al., **Senate Bill 442** sponsored by Senator Laslovich, **Senate Bill 451** sponsored by Senator Wanzenried et al., **Senate Bill 457** sponsored by Senator Branae, **Senate Bill 462** sponsored by Senator Steinbeisser, **Senate Bill 464** sponsored by Senator Laslovich et al., **Senate Bill 467** sponsored by Senator Balyeat, **Senate Bill**

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

491 sponsored by Senator Lewis, **Senate Bill 508** sponsored by Senator Brueggeman et al., and **Senate Bill 511** sponsored by Senator M. Tropila on April 24, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

May 5, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 371, **"AN ACT REVISING THE DEFINITION OF "EMPLOYEE" OR "WORKER" WITH RESPECT TO WORKERS' COMPENSATION LAWS; CLARIFYING INJURIES THAT MAY NOT BE CONSIDERED AS ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT; AMENDING SECTIONS 39-71-118 AND 39-71-407, MCA; AND PROVIDING AN EFFECTIVE DATE."**

Senate Bill 371 establishes a statutory definition for certain injuries that do not arise out of and in the course and scope of employment for purposes of workers' compensation coverage. The definition focuses on injuries that have occurred during breaks and employment-related social events. Presently, in Montana, the determination of whether an employee's injury arises out of and in the course and scope of employment is not codified but is determined based on a four-part test that is derived from well-established common law principles in the area of workers' compensation law. Under the four-part test, coverage is determined based on whether the activity was undertaken at the employer's request, whether the employer compelled the employee's attendance at the activity, whether the employer controlled or participated in the activity, and whether the employer and employee mutually benefitted from the activity. *See, e.g., Courser v. Darby School Dist.*, 214 Mont. 13, 16-17, 692 P.2d 417, 419 (1984). The Montana Supreme Court has repeatedly affirmed that no one factor is determinative in the analysis. Rather, the determination of whether an injury arose during the course and scope of the employment must be based on the "totality of the circumstances."

To my understanding, Senate Bill 371 was introduced primarily in response to two decisions by the Montana Supreme Court, involving unusual fact patterns, that were objected to by workers' compensation insurers. Based on the opinion of representatives I consulted from the Montana Department of Labor and Industry, I proposed an amendatory veto of the bill to affirm that the bill was consistent with generally recognized principles in workers' compensation law. The Legislature rejected my amendments, thereby raising questions as to the bill's intent and effect. In fact, I have heard varying and diverse opinions expressed as to whether the outcome of the two decisions objected to by the insurers would be altered by passage of the legislation. With the above history in mind, I have vetoed this bill because I do not believe it would be helpful – for either workers or employers – to reverse well-settled law and legal principles in Montana regarding workers' compensation coverage. For workers, a change in the law would create uncertainty, possible denial of coverage, and unnecessary litigation until the new definitions were interpreted by the courts. For employers, too, a change in the law would result in uncertainty. Additionally, absent workers' compensation coverage, employers would face the possible greater liability exposure under tort theories of recovery. From the discussions among legislators, alone, one thing is clear: there is not unanimity of opinion as to the effects of this legislation.

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

Last summer, the Labor-Management Advisory Council on Workers' Compensation within the Department of Labor and Industry, chaired by Lieutenant Governor John Bohlinger, considered the advisability of legislation to address the matters covered by Senate Bill 371. The Advisory Council, containing equal representation from labor and management, did not reach agreement on legislation. In fact, the Advisory Council's conclusions reflected the same concerns with the legislation as those I expressed above, namely that coverage issues are fact-specific, Montana's case law is consistent with the case law from other states, and the effect of the court decisions and legislation – in terms of costs and impacts to workers – were unknown. The recommendations of this Advisory Council are persuasive in my decision to veto the bill, as well.

Finally, I mention that the Legislature passed Senate Joint Resolution 30, requesting an interim study to examine, among other things, the premium cost drivers to workers' compensation insurance in Montana, as compared to other Western states with similar industries. Assuming this issue will be studied by the Legislature, my administration looks forward to working with the interim committee to continue to look at not only the narrow issues raised in this bill but, more importantly, the larger picture as to how workers' compensation costs can be kept down in Montana.

For the reasons expressed above, I ask for your support to sustain my veto of Senate Bill 371.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

May 4, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 117** sponsored by Senator Wanzenried, **Senate Bill 164** sponsored by Senator Debby Barrett, **Senate Bill 268** sponsored by Senator R. Brown, **Senate Bill 343** sponsored by Senator Jackson, **Senate Bill 399** sponsored by Senator Laslovich, **Senate Bill 475** sponsored by Senator Esp, and **Senate Bill 509** sponsored by Senator Gebhardt on May 4, 2009.

In addition, the following bills were returned to the Secretary of State without signature: **Senate Bill 100** sponsored by Senator Black, **Senate Bill 158** sponsored by Senator Barkus, **Senate Bill 300** sponsored by Senator Steinbeisser, **Senate Bill 396** sponsored by Senator Story, and **Senate Bill 425** sponsored by Senator Bales.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

May 5, 2009

The Honorable Robert Story
President of the Senate
State Capitol

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 119** sponsored by Senator Esp, **Senate Bill 235** sponsored by Senator Murphy et al., **Senate Bill 290** sponsored by Senator Jackson et al., **Senate Bill 400** sponsored by Senator Laslovich, and **Senate Bill 446** sponsored by Senator Story et al. on May 5, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

May 6, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 65** sponsored by Senator Hawks, **Senate Bill 171** sponsored by Senator Barkus, **Senate Bill 263** sponsored by Senator Shockley, **Senate Bill 322** sponsored by Senator Curtiss, **Senate Bill 360** sponsored by Senator Keane, **Senate Bill 418** sponsored by Senator Branae, **Senate Bill 439** sponsored by Senator Story, **Senate Bill 465** sponsored by Senator Hamlett, **Senate Bill 476** sponsored by Senator Shockley, **Senate Bill 498** sponsored by Senator Bales, **Senate Bill 507** sponsored by Senator Story, and **Senate Bill 510** sponsored by Senator Gebhardt on May 6, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

May 8, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 503, "**AN ACT PROVIDING FOR MONTANA ECONOMIC STIMULUS; PROVIDING A 5 PERCENT CAPITAL GAINS CREDIT FOR THE SALE OF A MONTANA BUSINESS THAT WAS ESTABLISHED DURING A CERTAIN TIME PERIOD AND THAT HAS BEEN IN OPERATION FOR OR**

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

HAS EMPLOYED A CERTAIN PERCENTAGE OF MONTANA EMPLOYEES FOR AT LEAST 10 YEARS; PROVIDING THAT 50 PERCENT OF ANY BONUS DEPRECIATION RECAPTURED UNDER FEDERAL TAX LAW ORIGINALLY TAKEN FOR ECONOMIC RECOVERY IS DEDUCTIBLE FOR INDIVIDUAL INCOME TAX AND CORPORATE LICENSE TAX PURPOSES; PROVIDING THAT TO QUALIFY THE SUBJECT PROPERTY OF THE RECAPTURE MUST HAVE BEEN FABRICATED OR ASSEMBLED IN MONTANA AND SOLD DURING SPECIFIED TIMES; PROVIDING FOR A CAPITAL GAINS TAX FOR SALE OF CERTAIN TANGIBLE AND INTANGIBLE MONTANA BUSINESS PROPERTY OR QUALIFYING STOCK OF A MONTANA BUSINESS; PROVIDING THAT THE PROPERTY MUST HAVE BEEN HELD FOR AT LEAST 5 YEARS; PROVIDING THAT THE RATE FOR DETERMINING THE CREDIT INCREASES FROM 2 PERCENT TO 5 PERCENT OVER A 20-YEAR PERIOD; AMENDING SECTIONS 15-30-121, 15-30-183, AND 15-31-114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.”

Senate Bill 503 creates new income tax credits and deductions offsetting capital gains in Montana. Ironically, people who have already made past investments without the credit would receive a windfall on their taxes of more than \$300,000 per year, while new investment in Montana would not derive tax benefits until 2019. This is not exactly a “shovel ready” stimulus to Montana’s economy. Even then, the prospects for future benefits from this bill are bleak. A respected national economic study by Moody’s Economy.com indicates that capital gains incentives yield only 38 cents of economic benefit for every tax dollar spent – resulting in a negative return, or an ongoing loss, for taxpayers. In short, the bill spends \$300,000 a year on a tax windfall for past investment, another \$80,000 a year on administrative costs, and 62 cents of every Montana tax dollar used for future subsidies. Despite its fetching title, I do not believe Senate Bill 503 would create real economic stimulus for Montana nor do I believe it represents good public policy.

I am also concerned that out-of-state corporations will litigate on constitutional Commerce Clause grounds to overturn the local Montana investment restrictions in the bill and claim incentives for investments they make anywhere in the world. This risk creates the prospect of an even greater waste of dollars to the extent Montana taxpayers will be asked to subsidize investments made by corporations in other states or nations.

Senate Bill 503 violates guidelines that I laid down from the start of the session to ensure that the state budget was balanced, needed reserves were maintained, and expenditures were balanced by revenues. The bill does not meet these objectives, and I conclude it is not a wise investment for Montana taxpayers.

For these combined reasons, I have vetoed Senate Bill 503.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

May 8, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 403, **“AN ACT INCREASING THE TIME THE PUBLIC SERVICE COMMISSION HAS TO ACT ON A PETITION FROM A UTILITY OR QUALIFYING SMALL POWER PRODUCTION FACILITY; ALLOWING ELECTRICITY FROM AN ELIGIBLE RENEWABLE RESOURCE PURCHASED BY A PUBLIC UTILITY FROM A QUALIFYING SMALL POWER PRODUCTION FACILITY TO BE USED TO OFFSET REQUIREMENTS OF THE RENEWABLE RESOURCE STANDARD; AMENDING SECTIONS 69-3-603 AND 69-3-2004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A CONTINGENT TERMINATION DATE.”**

Senate Bill 403 establishes a relationship between renewable energy credits (RECs) from electrical generation at qualifying facilities and Montana’s renewable energy portfolio standard. While there may be rate and public policy issues to be clarified about the transfer of RECs from qualifying facilities built in the future, the approach used in Senate Bill 403 threatens the integrity of Montana’s renewable portfolio standard with a questionable accounting device and dampens the prospects for construction of new renewable energy projects in the state.

Senate Bill 403 would reduce Montana’s official renewable portfolio standard by an amount that varies year to year based on the amount of electricity generated by renewable qualifying facilities. The bill would allow a utility to use the output from qualifying facilities to meet current goals for renewable energy generation without requiring the utility to actually purchase the RECs from those facilities. The bill’s proponents testified that Montana qualifying facilities would still have RECs to sell elsewhere. They deny that the bill would circumvent prohibitions against using the same REC twice. I disagree.

I have grave concerns that the double-counting sanctioned under Senate Bill 403 will not be acceptable to the voluntary or compliance markets for RECs, which hurts the value of renewable energy in Montana. Green-e Energy, which certifies the validity of RECs purchased voluntarily by individuals, already has informed my energy advisor that, were Senate Bill 403 to become law, it would no longer be able to certify sales of Montana qualifying facility RECs. The Western Renewable Energy Generation Information System (WREGIS), which certifies RECs for use in state-mandated compliance markets, such as Montana’s, will not rule on the validity of a REC until it is formally submitted. However WREGIS has repeatedly emphasized that, as a general principle, it cannot and will not permit double-counting of RECs. The opinions expressed by the bill’s proponents that this legislation would allow qualifying facilities to sell renewable energy to utilities and simultaneously allow the facilities to also sell their RECs elsewhere are clearly not opinions that are universally held.

Proponents of Senate Bill 403 have acknowledged there could be legal challenges to the bill, should it be signed into law, though they claim to be confident in the outcome. To the extent the State of Montana is drawn into the litigation, I have the added concern that Montana taxpayers would have to pay to defend these challenges.

To summarize, Senate Bill 403, if allowed to become law, would undermine the value of renewable energy generated in Montana, lower Montana’s renewable portfolio standard, risk a determination that Montana’s RECs do not comply with regional standards, and could result in litigation. Senate Bill 403 does not move construction of new renewable energy forward in Montana, and for these reasons, I have chosen to veto it.

I ask for your support in sustaining my veto.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

May 8, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 257, **"AN ACT REVISING THE DEFINITION OF "ELIGIBLE RENEWABLE RESOURCE" TO INCLUDE UPGRADES TO A HYDROELECTRIC FACILITY; REQUIRING CERTAIN RENEWABLE ENERGY CREDITS BE TRANSFERRED TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; REQUIRING A PORTION OF THE VALUE OF THE RENEWABLE ENERGY CREDITS ASSOCIATED WITH THE UPGRADE TO BE DEPOSITED IN THE UNIVERSAL LOW-INCOME ENERGY ASSISTANCE FUND; AMENDING SECTIONS 69-3-2003, 69-3-2004, AND 90-3-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."**

Senate Bill 257 purports simply to expand the definition of resources eligible to meet the requirements of renewable energy standards in Montana and elsewhere by adding a new category – upgrades to existing hydroelectric plants. (Under current law, hydro projects that are less than 10 megawatts, requiring no new impoundments, already are eligible renewable resources.) On its face, this would be a commendable goal, as Montana welcomes clean energy and the jobs that come from building clean energy projects. However, facts claimed by the proponents to support the bill do not bear up under examination. Because I believe Senate Bill 257 would subvert Montana's Renewable Portfolio Standard (RPS), actually discouraging the development of new renewable energy projects, I have chosen to veto the bill.

My first objection is that the definition of "renewable energy credits" (RECs) contained in the bill is based on a fictionalized scenario. The bill defines RECs based on an assumption that energy output at all times is generated first by capacity attributable to the upgrade to the existing hydroelectric facility up to the full amount of that capacity. Dams do not typically run at full capacity. This is even more the case with the incremental generating capacity added to an existing plant. However, Senate Bill 257 would have us believe that this new capacity – capacity which will run least often – produces RECs 24 hours per day, 365 days per year. This does not accord with reality.

My second objection is in the claim that Senate Bill 257 is necessary so RECs from hydroelectric upgrades can be sold in other states. Other states make their own decisions regarding RECs and would no sooner let Montana dictate what is an eligible REC for their RPS than Montana would let them dictate to us. The Western Renewable Energy Generation Information System (WREGIS), which oversees the market for RECs in the West, confirms this.

Third, I believe that the claim that a vast market exists in Montana for RECs from hydro upgrades is disingenuous. The Diamond Willow wind farm will serve all of Montana-Dakota Utilities' requirements under the current RPS. The Judith Gap wind farm will allow NorthWestern Energy to meet all of its requirements into the year 2015. This means the current market demand in Montana is approximately 5,000 RECs per year, a number that doubles in 2010. Even if we were to *assume* that NorthWestern Energy will not build a renewable energy facility (which assumption I believe is unlikely), there will be a statewide market for only approximately 260,000 RECs beginning in 2016. Comparing these numbers to the over 300,000 newly eligible RECs under Senate Bill 257 produced by upgrades *already built or committed to*, it becomes obvious that the value of all RECs would be lowered in this already limited market and would not result in the demand proponents suggest would occur.

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

Fourth, I am cognizant of the fact that these 300,000+ newly eligible RECs will come from upgrades at Kerr Dam (already completed) and Rainbow Dam (already committed to with or without this legislation). Under Senate Bill 257, incentives for additional investments under Montana's RPS law would be obliterated. Depending on the types of projects, my staff estimates that under current law, *without Senate Bill 257*, up to \$200 million dollars in new renewable investments would occur by 2015 to meet Montana's RPS. Senate Bill 257 thus negates the intent of Montana's RPS by discouraging development of bona fide new renewable energy projects, which would mean fewer jobs for Montanans and less revenue for local government.

Finally, I note that after Senate Bill 257 passed the legislature, it took two weeks to reach my desk. While I do not speculate on the reasons for this delay, the result is that I was unable to propose amendments to the bill that could have resulted in legislation to actually encourage new investment in Montana.

For these combined reasons, I have chosen to veto Senate Bill 257.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

May 11, 2009

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

The constitutional ten day period for my consideration of Senate Bill 489 has now passed, and the bill has become law without my signature. Senate Bill 489 recovers a portion of the traditional tax base of local governments and schools that was removed as a result of the Montana Supreme Court decision in the case of *Omimex v. State*, 2008 MT 403. Because I have some serious concerns with both the content of Senate Bill 489, and the manner in which it reached my desk, I am delivering it to you accompanied by this formal message.

My objection to Senate Bill 489, as passed by the 61st Legislature, is that while it restores the majority of the traditional tax base to local governments and schools that existed prior to *Omimex*, I do not believe that the approach adopted in the legislation reflects sound tax policy. Most problematic is that, as fashioned with its fine-tuned definitions, the bill would allow companies to manipulate their ownership interests in gas lines to avoid the payment of taxes. Also troubling is that the concept of "regulation" has for the first time been added to the inquiry of whether a pipeline is centrally assessed – which is particularly troubling in these post-deregulation years.

Equally troubling is that, although the bill resolves a significant portion of the fiscal problems that resulted from the *Omimex* decision, there nonetheless remains a high degree of uncertainty as to the effect of the bill's provisions. This uncertainty was highlighted by the testimony of at least one county official testifying in favor of the bill, who based his support on the premise that a particular company would be centrally assessed. However, during the same hearing a representative of the very company referred to by the county official testified as a proponent of the bill *based on the exact opposite premise*, claiming that the company would *not* be centrally assessed.

Other legislative testimony on Senate Bill 489 demonstrated uncertainty as to whether, under the bill's definitions, three of the largest integrated natural gas companies in Montana would be centrally assessed and classified as class

SENATE JOURNAL
ADDENDUM
61ST LEGISLATURE

9 properties, or locally assessed and classified as class 8 properties, making the prospect of litigation as to the determination highly probable. The uncertainties as to the classification of these oil and natural gas transport pipelines and affiliated properties should have been avoided.

This leads me to my objection regarding the manner in which Senate Bill 489 reached my desk. Like some other bills winding their way through the 61st Legislature, there was a delay in the delivery of this bill to me following its passage by both houses. This delay impeded my constitutional authority under Article VI, section 10 of the Montana Constitution to issue an amendatory veto of the bill for the Legislature's consideration. In fact, had the bill been delivered to me in a timely manner, I had planned to propose amendments that would have addressed the uncertainties and ambiguities existing in the legislation. Because of the delay in its delivery, and because I could not offer amendments to remedy the bill's problems, I anticipate uncertainty for Montana's local governments and school districts, and litigation that could have been avoided.

I also note that House Bill 657, which passed the Legislature and became law, directs the Revenue and Transportation Interim Committee to study the issues surrounding taxation of oil and natural gas property sought to be addressed in Senate Bill 489. I am concerned that the litigation risks posed by Senate Bill 489, at best, will limit and, at worst, prevent, the successful completion of the study, as occurred during the 2005-2006 interim when the *Omimex* case was in court.

Montana can ill afford the adverse effects on local governments and school districts that would occur without Senate Bill 489. Therefore, as stated at the outset, despite the problems it creates, on balance, I decided to let the bill become law without my signature. I anticipate work remains for the next legislature to remedy the bill's problems.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR